Veterans Affairs, and for other purposes.

S. 1374

At the request of Mr. DURBIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1374, a bill to provide health care professionals with immediate relief from increased medical malpractice insurance costs and to deal with the root causes of the current medical malpractice insurance crisis.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1380

At the request of Mr. SMITH, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1396

At the request of Ms. SNOWE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1396, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1409

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1409, a bill to provide funding for infrastructure investment to restore the United States economy and to enhance the security of transportation and environmental facilities throughout the United States.

S. RES. 167

At the request of Mr. CAMPBELL, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. Res. 167, a resolution recognizing the 100th anniversary of the founding of the Harley-Davidson Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a leading force for product and manufacturing innovation throughout the 20th century.

AMENDMENT NO. 1379

At the request of Mr. BAYH, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 1379 proposed to H.R. 2555, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. CANTWELL:

S. 1455. A bill to regulate international marriage broker activity in the United States, to provide for certain protections for individuals who utilize services of international marriage brokers, and for other services; to the Committee on the Judiciary.

Ms. CANTWELL. I rise today to introduce the International Marriage Broker Regulation Act of 2003. This legislation will provide much needed protections for the thousands of foreign women who meet their American husbands through for-profit Internet sites and catalogs.

While mail order bride catalogs may seem like a relic from the past, the use of marriage broker services has exploded in recent years with the growth of the Internet. While many of these matches result in happy, long unions, there is a growing epidemic of domestic abuse among couples who meet via international marriage brokers. Immigrant and women's advocacy groups across the country report seeing an increase in the number of these wives seeking to escape a physically abusive husband they met through an IMB. In several cases, the abuse has progressed to murder.

A 1999 study found there were over 200 Internet sites marketing foreign women primarily from Eastern Europe and Asia seeking American husbands. Recent studies suggest that there are now as many as 400 currently operating in this country. These sites feature pictures of hundreds of women who, according to the Web sites, are looking to meet and marry an American man. The international marriage brokers operating these sites promise a wife with ''traditional values,'' who will honor her husband.

Unfortunately, women meeting their husbands in this manner frequently have little opportunity to get to know their prospective spouses or assess their potential for violence. They also have little knowledge of their rights as victims of domestic violence in our country even if they are not yet citizens or permanent residents.

In my State of Washington alone there have been three cases of serious domestic violence including two murders of women who met their husbands through an Internet-based international marriage broker. Susanna Blackwell met her husband through an IMB and, in 1994, left her native Philippines to move to Washington to marry him. During their short marriage, Timothy Blackwell physically abused his wife regularly. Within a few months, she had left him and begun divorce proceedings. The Blackwells had been separated for more than a year when Timothy Blackwell learned Susanna was eight months pregnant with another man's child. On the last day of the divorce proceedings, Timothy Blackwell shot and killed Susanna, her unborn child, and two friends who were waiting outside of the Seattle courtroom.

In 1999, 18-year-old Anastasia Solovyova married Indle King, a man she met through an IMB. Entries from Anastasia's diary detail the abuse she suffered and the fear she had of her husband who threatened her with death if she were to leave him. In December 2000, Anastasia was found strangled to death and buried in a shallow grave in Washington. King's accomplice later told police that he strangled Anastasia with a necktie while King lay on her chest to keep her from moving. At trial, it was discovered that Indle King had previously married another woman he met through an internet IMB, who later got a domestic violence protection order against him before divorcing him in 1997. It was also discovered that he was seeking his third wife through an IMB when he and his accomplice developed the plot to kill Anastasia.

Unfortunately, there are similar examples across the country of women who have met their American spouses through an Internet IMB only to be seriously injured or killed by an American spouse with a preexisting history of violence against women.

My legislation is modeled on a groundbreaking Washington State law, the first State effort to regulate the international matchmaking industry. The Washington Legislature took action on this important issue after the Blackwell and King cases, and multiple States are currently looking at enacting similar legislation.

The primary goal of my legislation is to better inform women entering this country as fiancées and prospective spouses about the past history of their prospective spouse and to better inform them of their rights as residents of the United States if they become victims of domestic violence.

The bill would first of all halt the current practice of allowing Americans to simultaneously seek visas for multiple fiancées, by requiring that only one fiancée visa may be sought per applicant each year. Currently, multiple request for fiancée visas can be simultaneously filed with the Bureau of Citizenship and Immigration, and the American requesting the visa will simply choose to marry the first woman who is approved.

Second, my bill would require that, before an IMB may release the contact information of a foreign national client, it must first obtain her consent to the release of that information and second, provide her with information on the rights of victims of domestic violence in this country in her own language.

Third, the IMB would be required to ask American clients to provide information on any previous arrest, conviction or court-ordered restriction relating to crimes of violence along with their previous marital history. This information would also be made available to the foreign national.

Finally, it would require a U.S. citizen seeking a foreign fiancée visa to undergo a criminal background check, a check that is already performed for the fiancées entering the country

themselves. Information on convictions and civil orders would be relayed to the visa applicant by the consular official along with information on their legal rights should they find themselves in an abusive relationship.

Currently, an American seeking to marry someone through an IMB holds all of the cards. The American client has the benefit of a complete background check on his future wife, a requirement of the immigration process. In addition, the IMBs provide clients extensive information about the women they offer, everything from their favorite movies and hobbies to whether they are sexually promiscuous.

Conversely, the foreign fiancée' only gets whatever information her future spouse wants to share. These women have no way of confirming what they are told about previous marriages or relationships or the American client's criminal history.

Researchers describe the typical American client as Caucasian, educated, professional, and financially secure. More than half have been married once already and express a desire to find a bride with more ''traditional values,'' attitudes they feel are not held by many American women today.

Most of the foreign brides advertised by the IMBs come from countries where women are oppressed, have a few educational or professional opportunities, and where violence against women is condoned, if not encouraged. Because of the cultural differences, researchers say there is an inherent imbalance of power in these relationships between American men and foreign women.

The men who seek these more traditional wives typically control the household finances and make basic decisons like whether the wife will have a driver's license, get a job or spend time with friends. Because these women often immigrate alone, they have no family or other support network and rely on their husbands for everything. Such dependency can make it difficult for a wife to report abuse without worrying that doing so is a surefire ticket to deportation. Researchers agree that isolation and dependency put these women at greater risk of domestic abuse.

Documenting the extent of this problem has been quite difficult. Marriages arranged by IMBs are not tracked separately from other immigrant marriages. However, experts agree that abuse is more likely in such an arranged marriages and that abuse in these relationships is likely underreported since the women are likely to be more afraid of deportation than the abuse they suffer at home.

Attempting to get a handle on the problem, the Immigration and Naturalization Service commissioned a study of the industry in 1999. The INS study estimated that there are more than 200 IMBs operating around the globe, arranging between 4,000 and 6,000 marriages between American men and foreign women every year. Experts today put the number of IMBs at nearly 500 worldwide. And based on the 1999 statistics, there are between 20,000 and 30,000 women who have entered the U.S. using an IMB in the past 5 years. While there are a few IMBs aimed at female clients, the overwhelming majority of people who seek IMB services are men.

IMBs also are being used as a cover for those seeking servants. That is what happened to Helen Clemente, a Filipina brought to the U.S. by retired Seattle-area police officer Eldon Doty and his wife, Sally. Eldon and Sally Doty had divorced to allow Eldon to marry Helen Clemente. However, Eldon and Sally Doty continued to live as man and wife, forcing Helene Clemente to work as their servant. After 3 years, Helen ran way. The Dotys have worked with INS in exchange for de facto immunity, while Helen Clemente continues to fight deportation.

It is critical for legal immigrants to know that they don't have to suffer abuse or work without pay to remain in this country. The Violence Against Women Act provided some safeguards for these female immigrants, ensuring that in cases of abuse a woman's immigration petition may proceed without the sponsorship of her abuser. That important legislation provided protections for women who come here and find themselves in abusive relationships; however, more can and should be done.

My legislation would give foreign financées critical information they need to make an informed decision about the person they are going to marry. It puts these foreign brides on more equal footing with their American grooms.

My legislation enjoys support from more than 80 organizations and advocacy groups across the country, including religious coalitions, laws firms, women's rights and social justice groups. I hope my colleagues in the Senate will support it as well.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''International Marriage Broker Regulation Act of 2003''.

SEC. 2. LIMIT ON CONCURRENT PETITIONS FOR FIANCÉ(E) VISAS.

Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended—

(1) by inserting ''(1)'' before ''A visa''; and

(2) by adding at the end the following:

''(2) A United States citizen or a legal permanent resident may not file more than 1 application for a visa under section 101(a)(15)(K)(i) in any 1-year period.''.

SEC. 3. INTERNATIONAL MARRIAGE BROKERS.

Section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C. 1375), is amended to read as follows:

''SEC. 652. INTERNATIONAL MARRIAGE BROKERS.

''(a) FINDINGS.—Congress finds the following:

''(1) There is a substantial international marriage broker business worldwide. A 1999 study by the Immigration and Naturalization Service estimated that in 1999 there were at least 200 such companies operating in the United States, and that as many as 4,000 to 6,000 persons in the United States, almost all male, find foreign spouses through for-profit international marriage brokers each year.

''(2) Aliens seeking to enter the United States to marry citizens of the United States currently lack the ability to access and fully verify personal history information about their prospective American spouses.

''(3) Persons applying for fiancé(e) visas to enter the United States are required to undergo a criminal background information investigation prior to the issuance of a visa. However, no corresponding requirement exists to inform those seeking fiancé(e) visas of any history of violence by the prospective United States spouse.

''(4) Many individuals entering the United States on fiancé(e) visas for the purpose of marrying a person in the United States are unaware of United States laws regarding domestic violence, including protections for immigrant victims of domestic violence, prohibitions on involuntary servitude, protections from automatic deportation, and the role of police and the courts in providing assistance to victims of domestic violence.

''(b) DEFINITIONS.—In this section:

''(1) CLIENT.—The term 'client' means a United States citizen or legal permanent resident who makes a payment or incurs a debt in order to utilize the services of an international marriage broker.

''(2) CRIME OF VIOLENCE.—The term 'crime of violence' has the same meaning given the term in section 16 of title 18, United States Code.

''(3) DOMESTIC VIOLENCE.—The term 'domestic violence' means any crime of violence, or other act forming the basis for past or outstanding protective orders, restraining orders, no-contact orders, convictions, arrests, or police reports, committed against a person by—

''(A) a current or former spouse of the person;

''(B) an individual with whom the person shares a child in common;

''(C) an individual who is cohabiting with or has cohabited with the person;

''(D) an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs; or

''(E) any other individual if the person is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

''(4) FOREIGN NATIONAL CLIENT.—The term 'foreign national client' means a non-resident alien who utilizes the services of an international marriage broker.

''(5) INTERNATIONAL MARRIAGE BROKER.—

''(A) IN GENERAL.—The term 'international marriage broker' means a corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States, that charges fees for providing dating, matrimonial, social referrals, or matching services between United States citizens or legal permanent residents and nonresident aliens by providing information that would permit individuals to contact each other, including—

''(i) providing the name, telephone number, address, electronic mail address, or voicemail of an individual; or

''(ii) providing an opportunity for an in-person meeting.

''(B) EXCEPTIONS.—Such term does not include—

''(i) a traditional matchmaking organization of a religious nature that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates including the laws of the United States; or

''(ii) an entity that provides dating services between United States citizens or legal permanent residents and aliens, but not as its principal business, and charges comparable rates to all clients regardless of the gender or country of residence of the client.

''(6) PERSONAL CONTACT INFORMATION.—

''(A) IN GENERAL.—The term 'personal contact information' means information that would permit an individual to contact another individual, including—

''(i) the name, address, phone number, electronic mail address, or voice message mailbox of that individual; and

''(ii) the provision of an opportunity for an in-person meeting.

''(B) EXCEPTION.—Such term does not include a photograph or general information about the background or interests of a person.

''(c) OBLIGATIONS OF INTERNATIONAL MARRIAGE BROKER WITH RESPECT TO INFORMED CONSENT.—An international marriage broker shall not provide any personal contact information about any foreign national client, not including photographs, to any person unless and until the international marriage broker has—

''(1) provided the foreign national client with information in his or her native language that explains the rights of victims of domestic violence in the United States, including the right to petition for residence independent of, and without the knowledge, consent, or cooperation of, the spouse; and

''(2) received from the foreign national client a signed consent to the release of such personal contact information.

''(d) MANDATORY COLLECTION OF INFORMATION.—

''(1) IN GENERAL.—Each international marriage broker shall require each client to provide the information listed in paragraph (2), in writing and signed by the client (including by electronic writing and electronic signature), to the international marriage broker prior to referring any personal contact information about any foreign national client to the client.

''(2) INFORMATION.—The information required to be provided in accordance with paragraph (1) is as follows:

''(A) Any arrest, charge, or conviction record for homicide, rape, assault, sexual assault, kidnap, or child abuse or neglect.

''(B) Any court ordered restriction on physical contact with another person, including any temporary or permanent restraining order or civil protection order.

''(C) Marital history, including if the person is currently married, if the person has previously been married and how many times, how previous marriages were terminated and the date of termination, and if the person has previously sponsored an alien to whom the person has been engaged or married.

''(D) The ages of any and all children under the age of 18.

''(E) All States in which the client has resided since the age of 18.

''(e) ADDITIONAL OBLIGATIONS OF THE INTERNATIONAL MARRIAGE BROKER.—An international marriage broker shall not provide any personal contact information about any foreign national client to any client, unless and until—

''(1) the client has been informed that the client will be subject to a criminal background check should they petition for a visa under clause (i) or (iii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)); and

''(2) the foreign national client has been provided a copy of the information required under subsection (d) regarding that client.

''(f) CIVIL PENALTY.—

''(1) VIOLATION.—An international marriage broker that the Secretary of Homeland Security determines has violated any provision of this section or section 7 of the International Marriage Broker Regulation Act of 2003 shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $20,000 for each such violation.

''(2) PROCEDURES FOR IMPOSITION OF PENALTY.—A penalty imposed under paragraph (1) may be imposed only after notice and an opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

''(g) CRIMINAL PENALTY.—An international marriage broker that, within the special maritime and territorial jurisdiction of the United States, violates any provision of this section or section 7 of the International Marriage Broker Regulation Act of 2003 shall be fined in accordance with title 18, United States Code, or imprisoned for not less than 1 year and not more than 5 years, or both.

''(h) ENFORCEMENT.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of this section, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to —

''(1) enjoin that practice;

''(2) enforce compliance with this section; or

''(3) obtain damages.

''(i) STUDY AND REPORT.—

''(1) STUDY.—Not later than 2 years after the date of enactment of the International Marriage Broker Regulation Act of 2003, the Attorney General, in consultation with the Director of the Bureau of Citizenship and Immigration Services within the Department of Homeland Security, shall conduct a study—

''(A) regarding the number of international marriage brokers doing business in the United States and the number of marriages resulting from the services provided, and the extent of compliance with this section and section 7 of the International Marriage Broker Regulation Act of 2003;

''(B) that assesses information gathered under this section and section 7 of the International Marriage Broker Regulation Act of 2003 from clients and petitioners by international marriage brokers and the Bureau of Citizenship and Immigration Services;

''(C) that examines, based on the information gathered, the extent to which persons with a history of violence are using the services of international marriage brokers and the extent to which such persons are providing accurate information to international marriage brokers in accordance with this section and section 7 of the International Marriage Broker Regulation Act of 2003; and

''(D) that assesses the accuracy of the criminal background check at identifying past instances of domestic violence.

''(2) REPORT.—Not later than 3 years after the date of enactment of the International Marriage Broker Regulation Act of 2003, the Secretary of Homeland Security shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives setting forth the results of the study conducted pursuant to paragraph (1).''.

SEC. 4. CRIMINAL BACKGROUND CHECK.

Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)), as amended by section 2, is further amended by adding at the end the following:

''(3) A petitioner for a visa under clause (i) or (iii) of section 101(a)(15)(K) shall undergo a national criminal background check conducted using the national criminal history background check system and State criminal history repositories of all States in which the applicant has resided prior to the petition being approved by the Secretary of Homeland Security, and the results of the background check shall be included in the petition forwarded to the consular office under that section.''.

SEC. 5. CHANGES IN CONSULAR PROCESSING OF FIANCÉ(E) VISA APPLICATIONS.

(a) IN GENERAL.—During the consular interview for purposes of the issuance of a visa under clause (i) or (iii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)), a consular officer shall disclose to the alien applicant information in writing in the native language of the alien concerning—

(1) the illegality of domestic violence in the United States and the availability of resources for victims of domestic violence (including aliens), including protective orders, crisis hotlines, free legal advice, and shelters;

(2) the requirement that international marriage brokers provide foreign national clients with responses of clients to questions regarding the client's domestic violence history and marital history, but that such information may not be accurate;

(3) the right of an alien who is or whose children are subjected to domestic violence or extreme cruelty by a United States citizen spouse or legal permanent resident spouse, to self-petition for legal permanent immigration status under the Violence Against Women Act independently of, and without the knowledge, consent, or cooperation of, such United States citizen spouse or legal permanent resident spouse; and

(4) any information regarding the petitioner that—

(A) was provided to the Bureau of Citizenship and Immigration Services within the Department of Homeland Security pursuant to section 7; and

(B) is contained in the background check conducted in accordance with section 214(d)(3) of the Immigration and Nationality Act, as added by section 4, relating to any conviction or civil order for a crime of violence, act of domestic violence, or child abuse or neglect.

(b) DEFINITIONS.—In this section, the terms ''client'', ''domestic violence'', ''foreign national client'', and ''international marriage brokers'' have the same meaning given such terms in section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C. 1375).

SEC. 6. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

Section 105 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103) is amended—

(1) in subsection (d)(2), by inserting ''and the role of international marriage brokers (as defined in section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C. 1375))'' after ''public corruption''; and

(2) by adding at the end the following:

''(f) MEETINGS.—The Task Force shall meet not less than 2 times in a calendar year.''.

SEC. 7. BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.

The Bureau of Citizenship and Immigration Services within the Department of Homeland Security shall require that information described in section 652(c) of the Omnibus Consolidated Appropriations Act, 1997

(8 U.S.C. 1375(c)), as amended by section 3, be provided to the Bureau of Citizenship and Immigration Services by a client (as defined in section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C.1375)) in writing and signed under penalty of perjury as part of any visa petition under section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)).

SEC. 8. GOOD FAITH MARRIAGES.

The fact that an alien who is in the United States on a visa under clause (i) or (iii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) is aware of the criminal background of a client (as defined in section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C. 1375)) cannot be used as evidence that the marriage was not entered into in good faith.

SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.

Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security''.

SEC. 10. PREEMPTION.

Nothing in this Act, or the amendments made by this Act, shall preempt any State law that provides additional protection for aliens who are utilizing the services of an international marriage broker (as defined in section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C. 1375)).

By Mr. BREAUX:

S. 1456. A bill to amend the Public Health Service Act with respect to mental health services for elderly individuals; to the Committee on Health, Education, Labor, and Pensions.

Mr. BREAUX. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Positive Aging Act of 2003''.

SEC. 2. FINDINGS; STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) although, on average, ¼ of all patients seen in primary care settings have a mental disorder, primary care practitioners identify such illness in only about half of these cases;

(2) four mental disorders are among the 10 leading causes of disability in the United States;

(3) among the elderly, 10 percent have dementia and as many as one quarter have significant clinical depression;

(4) access to mental health services by the elderly is compromised by health benefits coverage limits, gaps in the mental health services delivery system, and shortages of geriatric mental health practitioners;

(5) the integration of medical and mental health treatment provides an effective means of coordinating care, improving mental health outcomes, and saving health care dollars; and

(6) the treatment of mental disorders in older patients, particularly those with other chronic diseases, can improve health outcomes and the quality of life for these patients.

(b) STATEMENT OF PURPOSE.—In order to address the emerging crisis in the identification and treatment of mental disorders among the elderly, it is the purpose of this Act to—

(1) promote models of care that integrate mental health services and medical care within primary care settings; and

(2) improve access by older adults to mental health services in community-based settings.

TITLE I—ENHANCING ACCESS TO MENTAL HEALTH SERVICES FOR THE ELDERLY

SEC. 101. SERVICES IMPLEMENTATION PROJECTS TO SUPPORT INTEGRATION OF MENTAL HEALTH SERVICES IN PRIMARY CARE SETTINGS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.) is amended—

(1) in section 520(b)—

(A) in paragraph (14), by striking ''and'' at the end;

(B) in paragraph (15), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following paragraph:

''(16) conduct the demonstration projects specified in section 520K.''; and

(2) by adding at the end the following section:

''SEC. 520K. PROJECTS TO DEMONSTRATE INTEGRATION OF MENTAL HEALTH SERVICES IN PRIMARY CARE SETTINGS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Center for Mental Health Services, shall make grants to public and private nonprofit entities for evidence-based projects to demonstrate ways of integrating mental health services for older patients into primary care settings, such as health centers receiving a grant under section 330 (or determined by the Secretary to meet the requirements for receiving such a grant), other Federally qualified health centers, primary care clinics, and private practice sites.

''(b) REQUIREMENTS.—In order to qualify for a grant under this section, a project shall provide for collaborative care within a primary care setting, involving psychiatrists, psychologists, and other licensed mental health professionals with appropriate training and experience in the treatment of older adults, in which screening, assessment, and intervention services are combined into an integrated service delivery model, including—

''(1) screening services by a mental health professional with at least a masters degree in an appropriate field of training, supported by psychiatrists and psychologists with appropriate training and experience in the treatment of older adults to ensure adequate consideration of biomedical and psychosocial conditions, respectively;

''(2) referrals for necessary prevention, intervention, follow-up care, consultations, and care planning oversight for mental health and other service needs, as indicated; and

''(3) adoption and implementation of evidence-based protocols, to the extent available, for prevalent mental health disorders, including depression, anxiety, behavioral and psychological symptoms of dementia, psychosis, and misuse of, or dependence on, alcohol or medication.

''(c) CONSIDERATIONS IN AWARDING GRANTS.—To the extent feasible, the Secretary shall ensure that—

''(1) grants under this section are awarded to projects in a variety of geographic areas, including urban and rural areas; and

''(2) the needs of ethnically diverse at-risk populations are addressed.

''(d) DURATION.—A project may receive funding pursuant to a grant under this section for a period of up to 3 years, with an extension period of 2 additional years at the discretion of the Secretary.

''(e) APPLICATION.—In order to receive a grant under this section, a public or private nonprofit entity shall—

''(1) submit an application to the Secretary (in such form, containing such information, and at such time as the Secretary may specify); and

''(2) agree to report to the Secretary standardized clinical and behavioral data necessary to evaluate patient outcomes and to facilitate evaluations across participating projects.

''(f) EVALUATION.—Not later than 6 months after the close of a calendar year, the Secretary shall submit to the Congress a report evaluating the projects receiving awards under this section for such year.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2004 and each fiscal year thereafter such sums as may be necessary to carry out this section.''.

SEC. 102. GRANTS FOR COMMUNITY-BASED MENTAL HEALTH TREATMENT OUTREACH TEAMS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.), as amended by section 101 of this Act, is further amended by adding at the end the following section:

''SEC. 520L. GRANTS FOR COMMUNITY-BASED MENTAL HEALTH TREATMENT OUTREACH TEAMS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Center for Mental Health Services, shall make grants to public or private nonprofit entities that are community-based providers of geriatric mental health services, to support the establishment and maintenance by such entities of multi-disciplinary geriatric mental health outreach teams in community settings where older adults reside or receive social services. Entities eligible for such grants include—

''(1) mental health service providers of a State or local government;

''(2) outpatient programs of private, nonprofit hospitals;

''(3) community mental health centers meeting the criteria specified in section 1913(c); and

''(4) other community-based providers of mental health services.

''(b) REQUIREMENTS.—In order to qualify for a grant under this section, an entity shall—

''(1) adopt and implement, for use by its mental health outreach team, evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older adults, relying to the greatest extent feasible on protocols that have been developed—

''(A) by or under the auspices of the Secretary; or

''(B) by academicians with expertise in mental health and aging;

''(2) provide screening for mental disorders, diagnostic services, referrals for treatment, and case management and coordination through such teams; and

''(3) coordinate and integrate the services provided by such team with the services of social service, mental health, medical, and other health care providers at the site or sites where the team is based in order to—

''(A) improve patient outcomes; and

''(B) to ensure, to the maximum extent feasible, the continuing independence of older adults who are residing in the community.

''(c) COOPERATIVE ARRANGEMENTS WITH SITES SERVING AS BASES FOR OUTREACH TEAMS.—An entity receiving a grant under this section may enter into an agreement with a person operating a site at which a geriatric mental health outreach team of the entity is based, including—

''(1) senior centers;

''(2) adult day care programs;

''(3) assisted living facilities; and

''(4) recipients of grants to provide services to senior citizens under the Older Americans Act, under which such person provides (and is reimbursed by the entity, out of funds received under the grant, for) any supportive services, such as transportation and administrative support, that such person provides to an outreach team of such entity.

''(d) CONSIDERATIONS IN AWARDING GRANTS.—To the extent feasible, the Secretary shall ensure that—

''(1) grants under this section are awarded to projects in a variety of geographic areas, including urban and rural areas; and

''(2) the needs of ethnically diverse at-risk populations are addressed.

''(e) APPLICATION.—In order to receive a grant under this section, an entity shall—

''(1) submit an application to the Secretary (in such form, containing such information, and at such time as the Secretary may specify); and

''(2) agree to report to the Secretary standardized clinical and behavioral data necessary to evaluate patient outcomes and to facilitate evaluations across participating projects.

''(f) EVALUATION.—Not later than 6 months after the close of a calendar year, the Secretary shall submit to the Congress a report evaluating the programs receiving a grant under this section for such year.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2004 and each fiscal year thereafter such sums as may be necessary to carry out this section.''.

TITLE II—ADMINISTRATIVE CHANGES TO STRENGTHEN PROGRAMS FOR GERIATRIC MENTAL HEALTH SERVICES

SEC. 201. DESIGNATION OF DEPUTY DIRECTOR FOR GERIATRIC MENTAL HEALTH SERVICES IN CENTER FOR MENTAL HEALTH SERVICES.

Section 520 of the Public Health Service Act (42 U.S.C. 290bb–31) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

''(c) DEPUTY DIRECTOR FOR GERIATRIC MENTAL HEALTH SERVICES.—The Director, after consultation with the Administrator, shall designate a Deputy Director for Geriatric Mental Health Services, who shall be responsible for the development and implementation of initiatives of the Center to address the mental health needs of older adults. Such initiatives shall include—

''(1) research on prevention and identification of mental disorders in the geriatric population;

''(2) innovative demonstration projects for the delivery of community-based mental health services for older Americans;

''(3) support for the development and dissemination of evidence-based practice models, including models to address dependence on, and misuse of, alcohol and medication in older adults; and

''(4) development of model training programs for mental health professionals and caregivers serving older adults.''.

SEC. 202. MEMBERSHIP OF ADVISORY COUNCIL FOR THE CENTER FOR MENTAL HEALTH SERVICES.

Section 502(b)(3) of the Public Health Service Act (42 U.S.C. 290aa–1(b)(3)) is amended by adding at the end the following:

''(C) In the case of the advisory council for the Center for Mental Health Services, the members appointed pursuant to subparagraphs (A) and (B) shall include representatives of older Americans, their families, and geriatric mental health specialists, including at least 1 physician with board certification in geriatric psychiatry and at least 1 psychologist with appropriate training and experience in the treatment of older adults.''.

SEC. 203. PROJECTS OF NATIONAL SIGNIFICANCE TARGETING SUBSTANCE ABUSE IN OLDER ADULTS.

Section 509(b)(2) of the Public Health Service Act (42 U.S.C. 290bb–2(b)(2)) is amended by inserting before the period the following: '', and to providing treatment for older adults with alcohol or substance abuse or addiction, including medication misuse or dependence''.

SEC. 204. CRITERIA FOR STATE PLANS UNDER COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANTS.

(a) IN GENERAL.—Section 1912(b) of the Public Health Service Act (42 U.S.C. 300x–2(b)) is amended by inserting after paragraph (5) the following:

''(6) GOALS AND INITIATIVES FOR IMPROVING ACCESS TO SERVICES FOR OLDER ADULTS.—The plan—

''(A) specifies goals for improving access by older Americans to community-based mental health services;

''(B) includes a plan identifying and addressing the unmet needs of such individuals for mental health services; and

''(C) includes an inventory of the services, personnel, and treatment sites available to improve the delivery of mental health services to such individuals.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to State plans submitted under section 1912 of the Public Health Service Act on or after the date that is 180 days after the date of the enactment of this Act.

By Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 1459. A bill to provide for reform of management of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I rise to introduce legislation to serve as the basis for much needed reforms to the Federal Government's management of Indian trust funds and trust assets within the U.S. Department of the Interior. I am joined by my colleagues, Senators DASCHLE and JOHNSON, in this effort, as well as by Representatives MARK UDALL and NICK RAHALL whom are sponsoring a companion measure in the House of Representatives.

This legislation is a reflection of a continuing effort by my colleagues and myself to develop a trust reform proposal that will not only serve to improve the Federal Government's administration and management of Indian trust funds and trust assets but it will also institute a role for Indian tribes to participate in developing additional needed reforms and enhance the principles of tribal self-determination.

Earlier this year, Senators DASCHLE, JOHNSON, and myself introduced similar trust reform legislation and received substantive feedback from Indian country on the bill. This feedback helped us in developing this new legislative proposal, which will serve as the framework for instituting broader reforms necessary for long-term management of tribal trust resources and enhancing Federal Indian policy. I thank the tribes and tribal organizations such as the Inter Tribal Monitoring Association, the Native American Rights Fund, and the National Congress of American Indians, which worked with our offices and helped to formulate the concepts embodied in this proposal. We are encouraged by their efforts and support to seek a legislative remedy to these difficult problems.

The basic elements of this bill focus on three primary areas: the management of trust funds and trust assets will be elevated in the overall Department by designating a Deputy Secretary of Indian Affairs to assume the current responsibilities of the Assistant Secretary of Indian Affairs and the Special Trustee. Second, as determined by the court and the administration, it is Congress' duty to affirm fiduciary standards for proper management of these trust funds and trust assets, and this bill includes such standards. And, third, the role of the tribes is enhanced through affirmation of the authority of tribes to utilize self-determination laws to manage their own funds and assets. Tribes will also be engaged in determining additional necessary reforms through participation in an established congressional commission.

The mismanagement of Indian trust funds is a long and disgraceful chapter in the history of this Nation. The 1994 American Indian Trust Fund Management Reform Act was enacted to take measures to reconcile these accounts and return the money to the Native American beneficiaries. Unfortunately, as continuing management problems persist and Native Americans are left out of the decision-making process about the management of their resources, it is time for Congress to step up and take decisive action to once again require significant reform with the active participation of the tribes.

I am pleased that Senators DASCHLE and JOHNSON are committed to working with me once again on this legislation, and I am also encouraged by the interest of our House counterparts to jointly introduce this bill with us. I look forward to working with my colleagues and the tribes to advance this legislation. We are willing to consider additional review and comments and expect to further refine this bill as it moves through the legislative process.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Indian Trust Fund Management Reform Act Amendments Act of 2003''.

SEC. 2. DEFINITIONS.

Section 2 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), and (6) as paragraphs (7), (4), (6), (5), (2), and (3), respectively, and moving those paragraphs so as to appear in numerical order; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

''(1) AUDIT.—The term 'audit' means an audit using accounting procedures that conform to generally accepted accounting principles and auditing procedures that conform to chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act of 1984'); and

(3) by adding at the end the following:

''(8) TRIBAL GOVERNMENT—The term 'tribal government' means the governing body of an Indian tribe.

''(9) TRUST ASSET.—The term 'trust asset' means any tangible property (such as land, a mineral, coal, oil or gas, a forest resource, an agricultural resource, water, a water source, fish, or wildlife) held by the Secretary for the benefit of an Indian tribe or an individual member of an Indian tribe in accordance with Federal law.

''(10) TRUST FUNDS.—The term 'trust funds' means—

''(A) all monies or proceeds derived from trust assets; and

''(B) all funds held by the Secretary for the benefit of an Indian tribe or an individual member of an Indian tribe in accordance with Federal law.

''(11) TRUSTEE.—The term 'trustee' means the Secretary or any other person that is authorized to act as a trustee for trust assets and trust funds.''.

SEC. 3. RESPONSIBILITIES OF SECRETARY.

Section 102 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4011) is amended to read as follows:

''SEC. 102. RESPONSIBILITIES OF SECRETARY.

''(a) ACCOUNTING FOR DAILY AND ANNUAL BALANCES OF INDIAN TRUST FUNDS.—

''(1) IN GENERAL.—The Secretary shall account for the daily and annual balances of all trust funds.

''(2) PERIODIC STATEMENT OF PERFORMANCE.—

''(A) IN GENERAL.—Not later than 20 business days after the close of the second calendar quarter after the date of enactment of this paragraph, and not later than 20 business days after the close of each calendar quarter thereafter, the Secretary shall provide to each Indian tribe and individual Indian for whom the Secretary manages trust funds a statement of performance for the trust funds.

''(B) REQUIREMENTS.—Each statement under subparagraph (A) shall identify, with respect to the period covered by the statement—

''(i) the source, type, and status of the funds;

''(ii) the beginning balance of the funds;

''(iii) the gains and losses of the funds;

''(iv) receipts and disbursements of the funds; and

''(v) the ending balance of the funds.

''(3) AUDITS.—With respect to each account containing trust funds, the Secretary shall—

''(A) for accounts with less than $1,000, group accounts separately to allow for statistical sampling audit procedures;

''(B) for accounts containing more than $1,000 at any time during a given fiscal year—

''(i) conduct, for each fiscal year, an audit of all trust funds; and

''(ii) include, in the first statement of performance after completion of the audit, a letter describing the results of the audit.

''(b) ADDITIONAL RESPONSIBILITIES.—The responsibilities of the Secretary in carrying out the trust responsibility of the United States include, but are not limited to—

''(1) providing for adequate systems for accounting for and reporting trust fund balances;

''(2) providing for adequate controls over receipts and disbursements;

''(3) providing for periodic, timely reconciliations of financial records to ensure the accuracy of account information;

''(4) determining accurate cash balances;

''(5) preparing and supplying to account holders periodic account statements;

''(6) establishing and publishing in the Federal Register consistent policies and procedures for trust fund management and accounting;

''(7) providing adequate staffing, supervision, and training for trust fund management and accounting; and

''(8) managing natural resources located within the boundaries of Indian reservations and trust land.''.

SEC. 4. AFFIRMATION OF STANDARDS.

Title I of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4011 et seq.) is amended by adding at the end the following:

''SEC. 105. AFFIRMATION OF STANDARDS.

''Congress affirms that the proper discharge of trust responsibility of the United States requires, without limitation, that the trustee, using the highest degree of care, skill, and loyalty—

''(1) protect and preserve Indian trust assets from loss, damage, unlawful alienation, waste, and depletion;

''(2) ensure that any management of Indian trust assets required to be carried out by the Secretary—

''(A) promotes the interest of the beneficial owner; and

''(B) supports, to the maximum extent practicable in accordance with the trust responsibility of the Secretary, the beneficial owner's intended use of the assets;

''(3)(A) enforce the terms of all leases or other agreements that provide for the use of trust assets; and

''(B) take appropriate steps to remedy trespass on trust or restricted land;

''(4) promote tribal control and self-determination over tribal trust land and resources without diminishing the trust responsibility of the Secretary;

''(5) select and oversee persons that manage Indian trust assets;

''(6) confirm that Indian tribes that manage Indian trust assets in accordance with contracts and compacts authorized by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) protect and prudently manage those Indian trust assets;

''(7) provide oversight and review of the performance of the trust responsibility of the Secretary, including Indian trust asset and investment management programs, operational systems, and information systems;

''(8) account for and identify, collect, deposit, invest, and distribute, in a timely manner, income due or held on behalf of tribal and individual Indian account holders;

''(9) maintain a verifiable system of records that, at a minimum, is capable of identifying, with respect to a trust asset—

''(A) the location of the trust asset;

''(B) the beneficial owners of the trust asset;

''(C) any legal encumbrances (such as leases or permits) applicable to the trust asset;

''(D) the user of the trust asset;

''(E) any rent or other payments made;

''(F) the value of trust or restricted land and resources associated with the trust asset;

''(G) dates of—

''(i) collections;

''(ii) deposits;

''(iii) transfers;

''(iv) disbursements;

''(v) imposition of third-party obligations (such as court-ordered child support or judgments);

''(vi) statements of earnings;

''(vii) investment instruments; and

''(viii) closure of all trust fund accounts relating to the trust fund asset;

''(H) documents pertaining to actions taken to prevent or compensate for any diminishment of the Indian trust asset; and

''(I) documents that evidence the actions of the Secretary regarding the management and disposition of the Indian trust asset;

''(10) establish and maintain a system of records that—

''(A) permits beneficial owners to obtain information regarding Indian trust assets in a timely manner; and

''(B) protects the privacy of that information;

''(11) invest tribal and individual Indian trust funds to ensure that the trust account remains reasonably productive for the beneficial owner consistent with market conditions existing at the time at which investment is made;

''(12) communicate with beneficial owners regarding the management and administration of Indian trust assets; and

''(13) protect treaty-based fishing, hunting, gathering, and similar rights-of-access and resource use on traditional tribal land.''.

SEC. 5. INDIAN PARTICIPATION IN TRUST FUND ACTIVITIES.

Section 202 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4022) is amended by striking subsection (c) and inserting the following:

''(c) MANAGEMENT THROUGH SELF-DETERMINATION AUTHORITY.—

''(1) IN GENERAL.—An Indian tribe may use authority granted to the Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to manage Indian trust funds and trust assets without terminating—

''(A) the trust responsibility of the Secretary; or

''(B) the trust status of the funds and assets.

''(2) NO EFFECT ON TRUST RESPONSIBILITY.—Nothing in this subsection diminishes or otherwise impairs the trust responsibility of the United States with respect to the Indian people.''.

SEC. 6. DEPUTY SECRETARY FOR INDIAN AFFAIRS.

(a) IN GENERAL.—Section 302 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4042) is amended to read as follows:

''SEC. 302. DEPUTY SECRETARY FOR INDIAN AFFAIRS.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established within the Department the position of Deputy Secretary for Indian Affairs (referred to in this section as the 'Deputy Secretary'), who shall report directly to the Secretary.

''(2) APPOINTMENT.—The Deputy Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

''(b) DUTIES.—

''(1) IN GENERAL.—The Deputy Secretary shall—

''(A) oversee the Bureau of Indian Affairs;

''(B) be responsible for carrying out all duties assigned to the Assistant Secretary for Indian Affairs as of the day before the date of enactment of the American Indian Trust Fund Management Reform Act Amendments Act of 2003;

''(C) oversee all trust fund and trust asset matters of the Department, including—

''(i) administration and management of the Reform Office;

''(ii) financial and human resource matters of the Reform Office; and

''(iii) all duties relating to trust fund and trust asset matters;

''(D) engage in appropriate government-to-government relations and consultations with Indian tribes and individual trust asset and trust fund account holders on matters involving trust asset and trust fund management and reform within the Department; and

''(E) carry out such other duties relating to Indian affairs as the Secretary may assign.

''(2) TRANSFER OF DUTIES OF ASSISTANT SECRETARY.—As of the date of enactment of the American Indian Trust Fund Management Reform Act Amendments Act of 2003, all duties assigned to the Assistant Secretary for Indian Affairs shall be transferred to, and become the responsibility of, the Deputy Secretary.

''(3) SUCCESSION.—Any official who is serving as Assistant Secretary for Indian Affairs on the date of enactment of the American Indian Trust Fund Management Reform Act Amendments Act of 2003 and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (a) to the successor position authorized under subsection (a) if the Secretary approves the occupation by the official of the position by the date that is 180 days after the date of enactment of the American Indian Trust Fund Management Reform Act Amendments Act of 2003 (or such later date determined by the Secretary if litigation delays rapid succession).

''(c) STAFF.—In carrying out this section, the Deputy Secretary may hire such staff having expertise in trust asset and trust fund management, financial organization and management, and Federal Indian law and policy as the Deputy Secretary determines is necessary to carry out this title.

''(d) EFFECT ON DUTIES OF OTHER OFFICIALS.—

''(1) IN GENERAL.—Except as provided in subsection (c) and paragraph (2), nothing in this section diminishes any responsibility or duty of the Deputy Secretary of the Interior appointed under the Act of May 9, 1935 (43 U.S.C. 1452), or any other Federal official, relating to any duty established under this Act or any other provision of law.

''(2) TRUST ASSET AND TRUST FUND MANAGEMENT AND REFORM.—Notwithstanding any other provision of law, the Deputy Secretary shall have overall management and oversight authority on matters of the Department relating to trust asset and trust fund management and reform (including matters that, as of the day before the date of enactment of the Indian Trust Asset and Trust Fund Management and Reform Act of 2003, were carried out by the Commissioner of Indian Affairs).

''(e) OFFICE OF TRUST REFORM IMPLEMENTATION AND OVERSIGHT.—

''(1) ESTABLISHMENT.—There is established within the Office of the Secretary the Office of Trust Reform Implementation and Oversight.

''(2) REFORM OFFICE HEAD.—The Reform Office shall be headed by the Deputy Secretary.

''(3) DUTIES.—The Reform Office shall—

''(A) supervise and direct the day-to-day activities of the Deputy Secretary, the Commissioner of Reclamation, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service, to the extent that those officials administer or manage any Indian trust assets or funds;

''(B) administer, in accordance with title II, all trust properties, funds, and other assets held by the United States for the benefit of Indian tribes and individual members of Indian tribes;

''(C) require the development and maintenance of an accurate inventory of all trust funds and trust assets;

''(D) ensure the prompt posting of revenue derived from a trust fund or trust asset for the benefit of each Indian tribe (or individual member of each Indian tribe) that owns a beneficial interest in the trust fund or trust asset;

''(E) ensure that all trust fund accounts are audited at least annually, and more frequently as determined to be necessary by the Deputy Secretary;

''(F) ensure that the Deputy Secretary, the Director of the Bureau of Land Management, the Commissioner of Reclamation, and the Director of the Minerals Management Service provide to the Secretary current and accurate information relating to the administration and management of trust funds and trust assets; and

''(G) provide for regular consultation with trust fund account holders on the administration of trust funds and trust assets to ensure, to the maximum extent practicable in accordance with applicable law and a Plan approved under section 202, the greatest return on those funds and assets for the trust fund account holders consistent with the beneficial owners intended uses for the trust funds.

''(4) CONTRACTS AND COMPACTS.—The Reform Office may carry out its duties directly or through contracts and compacts under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 403 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 458cc) to provide for the management of trust assets and trust funds by Indian tribes pursuant to a Trust Fund and Trust Asset Management and Monitoring Plan developed under section 202 of this Act.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 5313 of title 5, United States Code, is amended by inserting ''Deputy Secretary of the Interior for Indian Affairs'' after ''Deputy Secretary of the Interior''.

(B) Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of the Interior (6)'' and inserting ''Assistant Secretaries of the Interior (5)''.

(C) Title III of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4041 et seq.) is amended by striking the title heading and inserting the following:

''TITLE III—REFORMS RELATING TO TRUST RESPONSIBILITY''.

(D) Section 301(1) of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4041(1)) is amended by striking ''by establishing in the Department of the Interior an Office of Special Trustee for American Indians'' and inserting ''by directing the Deputy Secretary''.

(E) Section 303 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4043) is amended—

(i) by striking the section heading and inserting the following:

''SEC. 303. ADDITIONAL AUTHORITIES AND FUNCTIONS OF THE DEPUTY SECRETARY.'';

(ii) in subsection (a)(1), by striking ''section 302(b) of this title'' and inserting ''section 302(a)(2)'';

(iii) in subsection (e)—

(I) by striking the subsection heading and inserting the following:

''(e) ACCESS OF DEPUTY SECRETARY.—''; and

(II) by striking ''of his duties'' and inserting ''of the duties of the Deputy Secretary''; and

(iv) by striking ''Special Trustee'' each place it appears and inserting ''Deputy Secretary''.

(F) Sections 304 and 305 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4044, 4045) are amended by striking ''Special Trustee'' each place it appears and inserting ''Deputy Secretary''.

(G) The first section of Public Law 92–22 (43 U.S.C. 1453a) is repealed.

(H) Any reference in a law, map, regulation, document, paper, or other record of the United States to the Assistant Secretary of the Interior for Indian Affairs shall be deemed to be a reference to the Deputy Secretary of the Interior for Indian Affairs.

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date on which a Deputy Secretary for Indian Affairs is appointed under section 302 of the American Indian Trust Fund Management Reform Act (as amended by subsection (a)).

SEC. 7. COMMISSION FOR REVIEW OF INDIAN TRUST FUND MANAGEMENT RESPONSIBILITIES.

(a) ESTABLISHMENT.—There is established a commission, to be known as the ''Commission for Review of Indian Trust Fund Management Responsibilities'' (referred to in this section as the ''Commission''), for the purpose of assessing the fiduciary and management responsibilities of the Federal Government with respect to Indian tribes and individual Indian beneficiaries.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 12 members, of whom—

(A) 4 members shall be appointed by the President;

(B) 2 members shall be appointed by the Majority Leader of the Senate;

(C) 2 members shall be appointed by the Minority Leader of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives; and

(E) 2 members shall be appointed by the Minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—The membership of the Commission—

(A) shall include a majority of individuals who are representatives of federally recognized Indian tribes, including at least 1 representative who is an individual Indian trust fund account holder; and

(B) shall include members who have experience in—

(i) trust management;

(ii) fiduciary investment management;

(iii) Federal Indian law and policy; and

(iv) financial management.

(3) CHAIRPERSON.—The Commission shall select a Chairperson from among the members of the Commission.

(4) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(5) TERM; VACANCIES.—

(A) TERM.—A member shall be appointed for the life of the Commission.

(B) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment was made.

(c) MEETINGS.—

(1) INITIAL MEETING.—Not later than 60 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(2) PROCEDURES.—The Commission shall—

(A) meet at the call of the Chairperson; and

(B) establish procedures for conduct of business of the Commission, including public hearings.

(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(d) DUTIES.—The Commission shall—

(1) review and assess Federal laws and policies relating to the management of Indian trust funds;

(2) make recommendations (including legislative and administrative recommendations) relating to management of Indian trust funds, including but not limited to options for—

(A) historical accounting;

(B) settlement of disputed tribal and individual accounts; and

(C) revisions of—

(i) management standards;

(ii) administrative management structure;

(iii) investment policies and accounting; and

(iv) reporting procedures; and

(3) carry out such other duties as the President may assign to the Commission.

(e) REPORT.—Not later than 32 months after the date on which the Commission holds the initial meeting of the Commission, the Commission shall submit to Congress, the Secretary of the Interior, and the Secretary of the Treasury a report that includes the results of the assessment conducted, and the recommendations made, by the Commission under subsection (d).

(f) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(3) ACCESS TO PERSONNEL.—The Commission shall have reasonable access to staff responsible for Indian trust management in—

(A) the Department of the Interior;

(B) the Department of Treasury; and

(C) the Department of Justice.

(4) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(5) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(C) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(h) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(j) TERMINATION OF COMMISSION.—The Commission and the authority of the Commission under this section terminates on the date that is 3 years after the date on which the Commission holds the initial meeting of the Commission.

SEC. 8. REGULATIONS.

The Secretary of the Interior, in consultation with interested Indian tribes, shall promulgate such regulations as are necessary to carry out this Act and amendments made by this Act.

SEC. 9. EFFECT OF ACT.

(a) COURT PROCEEDINGS.—Nothing in this Act limits the findings, remedies, jurisdiction, authority, or discretion of the courts in the matter entitled Cobell v. Norton, Civ. No. 96–1285 (RCL).

(b) USE OF FUNDS.—No funds appropriated for the purpose of an historical accounting of the individual Indian trust funds shall be used except as provided in an order of the court in Cobell v. Norton, Civ. No. 96–1285 (RCL) entered after the date of enactment of this Act.

Mr. DASCHLE. Mr. President, today I once again join with Senators JOHN MCCAIN and TIM JOHNSON in introducing legislation that addresses the longstanding problem of mismanagement of assets held by the United States in trust for federally recognized Indian tribes and individual American Indians.

Indian country has faced many challenges over the years. Few, however, have had more far-ranging ramifications on the lives of individual Native Americans, or been more vexing, than that of restoring integrity to trust fund management.

For over 100 years, the Department of the Interior has administered a trust fund containing the proceeds of leasing of oil, gas, land and mineral rights on Indian land for the benefit of Indian people. Today, that trust fund may owe as much as $10 billion to as many as 500,000 Indians.

To provide some perspective, the 16 tribes of the Great Plains in South Dakota, North Dakota, and Nebraska hold 10 million acres of trust lands representing over one-third of the tribal trust assets. Many enrolled members of the nine South Dakota tribes have individual trust accounts.

There is little disagreement that current government administration of the trust fund is a failure. However, there is no consensus on how to reform it.

Senators MCCAIN, JOHNSON, and I believe that Congress should be more assertive in promoting a solution to the trust management problem and in ensuring that tribes and individual Indian account holders have a true voice in shaping that solution. That is why we have proposed legislation that would redesign the trust management process.

Today, Senators MCCAIN, JOHNSON, and I are introducing a revised version of S. 175, a trust reform proposal we introduced earlier this year. This bill incorporates feedback we received from interested stakeholders and responds to developments that have occurred since S. 175 was introduced.

We are joined in this effort by Representatives MARK UDALL and NICK RAHALL who are introducing a companion measure in the House. I commend them for their commitment to correcting the trust management problem and value their leadership on this issue.

This legislation lays out legislative standards that form the cornerstone of the United States of America's trust responsibility to Indian nations. It directs the Secretary of the Interior to conduct a historical accounting for all trust accounts, regardless of amount, and authorizes an Indian tribe to manage Indian trust funds or trust assets through contracts or compacts. The trust responsibility of the Secretary or the trust status of funds and assets is not terminated but a voluntary option of cobeneficiary management is allowed if a tribe chooses that option.

A clear line of authority for trust management is established by elevating the Assistant Secretary of Indian Affairs to Deputy Secretary of Indian Affairs status. The special trustee's responsibilities are transferred to the Deputy Secretary, and the special trustee is terminated as intended in the 1994 act.

Finally, a temporary congressional commission is created to review trust funds management by the Department of the Interior. Comprised of 12 members, it will review and assess Federal management of trust funds and provide recommendations relating to the administrative and management duties of the Department.

It is our hope that this proposal will encourage more constructive dialog among the Congress, the Interior Department, and Indian country on the

trust management problem and lead to a true consensus solution. With that goal in mind, the bill has been reviewed by representatives of the Great Plains tribes, the Native American Rights Fund, the National Congress of American Indians, the InterTribal Monitoring Association, and the tribes of Arizona.

With respect to the Great Plains tribes, I would like to note that Mike Jandreau, chairman of the Lower Brule Sioux Tribe, has been a particularly eloquent advocate and effective champion of trust reform. Mike and Cheyenne River Sioux tribal chairman, Harold Frazier, led very productive working sessions with tribal leaders from South Dakota, North Dakota, and Nebraska that both raised awareness of the importance of this issue and built support for the bill that is being introduced today.

I commend the commitment and contribution of the participating Great Plains tribal leaders who have been an integral part of a public process that will not stop until the trust management problem is solved. The McCain-Daschle-Johnson bill is intended to contribute to this result.

It should also be noted and understood that we are not addressing the Cobell litigation or settlement issues in this bill. Our focus is the broader trust responsibility of the Department of the Interior.

The issues of trust reform and reorganization within the Bureau of Indian Affairs are nothing new to us here on Capitol Hill or in Indian country. Collectively, we have endured many efforts—some well intentioned and some clearly not—to fix, reform, adjust, improve, streamline, downsize, and even terminate the Bureau of Indian Affairs and its trust activities.

These efforts have been pursued under both Republican and Democratic administrations. Unfortunately, they have rarely included meaningful involvement of tribal leadership or respected the Federal Government's treaty obligation to tribes.

Restoring accountability and efficiency to trust management is a matter of fundamental justice. Nowhere do the principles of self-determination and tribal sovereignty come more into play than in the management and distribution of trust funds and assets.

I am deeply disappointed that this problem has not been solved to the satisfaction of tribal leaders by now. That fight is not over.

An effective long-term solution to the trust problem must be based on government-to-government dialog. The McCain-Daschle-Johnson bill will not only provide the catalyst for meaningful tribal involvement in the search for solutions, it can also form the basis for true trust reform. I look forward to participating with tribal leaders, administration officials, and my congressional colleagues in pursuit of this essential objective.

By Mr. KENNEDY (for himself, Ms. SNOWE, Mr. REED, and Mr. BINGAMAN):

S. 1460. A bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator SNOWE, Senator REED, and Senator BINGAMAN in introducing The Preservation of Antibiotics for Medical Treatment Act.

Our legislation is both important and timely because we face unprecedented challenges to our health and safety from deadly diseases. As we have seen from SARS, new diseases can arise naturally and spread rapidly around the world. As we have seen from the anthrax attack, diseases can also be spread by terrorists.

We rely heavily on miracle drugs and vaccines to protect us against both of these threats. In fact, antibiotics are our strongest weapon in combating deadly bacterial diseases. But we have failed for too long to deal with a related and increasingly serous aspect of the problem the indiscriminate use of antibiotics for livestock and poultry which is reducing the effectiveness of these indispensable drugs that have become the crown jewels of modern medicine.

Every year, literally tons of antibiotics are routinely added to animal feed to enhance growth, fatten animals, and fatten profits too. Mounting scientific evidence, though, shows that nontherapeutic use of antibiotics in agricultural animals can lead to the development of antibiotic-resistant bacteria. These resistant bacteria are easily transferred to people by tainted food, making it very difficult or impossible to treat deadly infections.

The use of antibiotics in medicines began in the 1940s, and in the last 60 years, many different antibiotics have been discovered and widely used in treating patients. But the race has accelerated between patients and bacteria. Miracle drugs have saved countless lives but, inevitably, as their use in medicine increased, bacteria have developed resistance as well. Already, some older antibiotics have become useless in medicine.

There have also been cases of infections resistant even to some of the newest and most powerful antibiotics. According to the Centers for Disease Control and Prevention, thousands of Americans die each year from antibiotic-resistant diseases. The widespread use of antibiotics in agriculture was clearly contributing to this serious problem. In 1997, the World Health Organization recommended that antibiotics should not be used to promote animal growth, although they could still be used to treat sick animals. Last month, McDonald's Corporation took a major step in dealing with this problem. It announced a directive to its meat suppliers to stop or reduce the use of antibiotics for growth promotion of livestock.

The legislation we propose will phase out nontherapeutic uses of medically important antibiotics in livestock and poultry production, unless their manufacturers can demonstrate that they are no danger to public health.

The bill applies the same strict standard to applications for approval of new animal antibiotics. It does not restrict the use of antibiotics to treat sick animals or to treat pets and other animals not used for food.

There may well be certain circumstances in which the use of antibiotics briefly to prevent the spread of a specific disease in a limited area is legitimate. I look forward to working with my colleagues as we move ahead on this legislation to ensure that we properly distinguish the different uses of antibiotics for disease prevention.

The bill also recognizes that FDA is conducting needed studies to analyze the risks of using specific antibiotics in raising animals. The agency's current risk analysis focuses on the antibiotic known as virginiamycin. Our legislation allows such studies to be conducted in determining whether antibiotics can be used with a reasonable certainty of no harm, and we welcome FDA's scientific analysis of the use of these products.

In addition, the bill authorizes Federal payments to small family farms to defray the cost of compliance, and also authorizes research and demonstration projects to reduce the use of antibiotics in raising food-producing animals. Finally, the bill provides a needed mechanism for collecting data to monitor the use of antibiotics in animals, so that we can stay ahead of the growing public health threat of antibiotic-resistant bacteria.

The American Medical Association and 300 other organizations support our legislation. At a time when the nation is relying heavily on antibiotics to protect our security from bioterrorism, we can't afford to squander these essential defenses. I urge my colleagues to support this legislation, and I look forward to its enactment.

Ms. SNOWE. Mr. President, I rise today to join my colleague from Massachusetts, Senator KENNEDY, in introducing legislation addressing the critical issue of bacterial resistance to antibiotics arising from overuse of these valuable drugs in humans and animals.

Alexander Fleming's discovery of the antibacterial effects of penicillin in 1929 represented the dawning of a new era in medicine. In the decades after its discovery, penicillin became a miracle drug—allowing physicians to cure diseases that previously would have been untreatable—and literally saved millions of lives.

Antibiotics are crucial in curing a variety of common diseases that could result in severe illness or even death if left untreated. The anthrax attacks

after September 11 showed us another need for antibiotics that sadly is a continuing threat in our global community—bioterrorism. Many of us in the Capitol relied on the effective treatment of antibiotics to counteract exposure to the anthrax spores and maintain our health during those weeks and months when our Nation was grieving the horrible impact of terrorism in our homeland.

Unfortunately, decades after the discovery of penicillin and other antibiotics, diseases of bacterial origin remain a real and increasing threat to public health. Overuse of medically important antibiotics in humans and animals promotes resistance in bacteria. Infections caused by resistant bacteria cannot be treated with traditional antibiotics. If left unchecked, the problem of bacterial resistance represents an impending public health crisis.

Recogizing the public health threat, Congress already took steps to curb antibiotic overuse in humans by amending the Public Health Service Act and the Public Health Threats and Emergencies Act. Unfortunately, the issue of antibiotic overuse in animals has not been addressed in Federal law.

We recognize the value of antibiotics in treating disease in humans and animals. Unfortunately, it is common practice to put antibiotics, which are similar or identical to those used in human medicine, in the food or water of healthy animals intended for human consumption to promote these animals' growth and compensate for their unsanitary conditions. This practice poses an environmental threat and jeopardizes the effectiveness of these drugs in treating ill people and animals. Our legislation provides for the phased elimination of nontherapeutic use of medically important antibiotics in food animals unless such usage is deemed safe through rigorous scientific evaluation.

Foodborne illness affects millions of Americans each year and is estimated to cost the economy up to $35 billion annually in medical expenses and lost productivity alone. Tragically, the worst foodborne illnesses cause thousands of deaths and disproportionally target the very young and the elderly each year in the United States. The impact of foodborne illness in developing countries is even more severe. By itself, the magnitude of this public health hazard necessitates action to ensure the safety of our food supply. I hope the improved data collection and monitoring of antibiotics used in food animals included in our legislation will help provide a more complete picture of the contributing factors to these devastating illnesses.

Our legislation provides for research and demonstration grants to colleges and universities to exploit advances in biotechnology and animal science to discover new, safer methods of inexpensive, responsible agricultural productivity. We appreciate the good intentions of the many farmers across our Nation, and our legislation establishes transition funds to help these families and businesses implement changes that will benefit us all.

I have received numerous letters from groups and individuals in Maine who were concerned that the overuse of antibiotics in animal agriculture was not being actively addressed by Congress. I appreciate all who took the time to voice their concerns to me. I extend my personal thanks to all who have invested so much time and energy in educating Members of Congress as well as the public on this critical issue.

I am pleased to join Senator KENNEDY in introducing legislation today that will address this crucial issue. I applaud the steps that some businesses have taken voluntarily to discourage use of antibiotics in healthy animals. It is my hope that our legislation as well as the voluntary efforts by businesses across the Nation will help to ensure that we have drugs available that are effective in treating diseases for many years to come.

By Mr. MCCAIN:

S. 1461. A bill to establish two new categories of nonimmigrant workers, and for other purposes; to the committee on the Judiciary.

Mr. MCCAIN. Mr. President, in the aftermath of the September 11 attacks, our Nation awoke to the realization that we are not as safe as we once believed. Soon after, we began critical efforts to improve our homeland security. Those efforts remain ongoing today. As we work to improve the security of our homeland, securing our borders remains one of the most difficult and important challenges facing our Nation today. The simple fact is, our borders are not secure, and no amount of money, equipment, or manpower alone will not ensure the safety of our Nation.

Over the past several years, I have supported many efforts to improve border security and address the repercussions of poor enforcement and failed immigration policies. It is imperative that we not shirk from what are Federal responsibilities. We must address the many unfunded mandates born by States and local communities because control of immigration is principally the responsibility of the Federal Government. We must continue efforts designed to improve infrastructure and technology at and between our ports of entry as well as enhance coordination between Federal, State and local law enforcement personnel. However, without comprehensive immigration reform, all of these efforts will be ineffective and meaningless.

In order to address these concerns and to balance the need to secure our borders while addressing the inconsistencies and contradictions of our Nation's immigration policy, I am introducing the Border Security and Immigration Improvement Act. This bill is the first comprehensive immigration reform package introduced this Congress, and I hope that it will serve to initiate an important and necessary dialog so that we may address the security needs of our country and reform our failed immigration system.

The Border Security and Immigration Improvement Act establishes two new visa programs. One addresses individuals wishing to enter the United States to work on a short-term basis while the other will be available for the undocumented immigrants currently residing in the U.S.

Fully cognizant of the failures and abuses of previous temporary worker programs, I am committed to ensuring that this new program prevents abuse and protects the rights of workers. Important protections are built into the new visa program. Complete portability across all sectors will allow workers the freedom to leave abusive employers and seek work elsewhere. This program would allow employers to immediately apply for permanent resident status on behalf of the employee, but unlike previous programs, this bill would allow workers self-petition after 3 years so that no employer could use residency status to manipulate and abuse any worker. Additionally, all U.S. labor laws are applicable to ensure full worker protection.

In another departure from previous visa programs, this legislation does not put a finite number on the available visas, rather it is designed to allow the market to dictate the need for workers. Through the establishment of a job registry system, U.S. employers in need of workers can post available jobs on this registry. To ensure that U.S. workers do not lose out on valuable job opportunities, each job posted on the registry must be available to U.S. workers for a minimum of 14 days before it is open to a foreign worker. Additionally, to ensure that we do not incentivize employers to look abroad for labor that is less expensive than the domestic workforce, all employers will be charged a fee for the worker's visa.

The second visa program included in this bill addresses the estimated 6 to 10 million people currently residing in the United States. Today, undocumented immigrants live in constant fear, in a shadowy underground that affords them limited opportunities and frequently leads to both exploitation and abuse. Establishing a process by which this population can voluntarily come forward and seek legal status is a necessary component to comprehensive immigration reform and ensuring the safety of our Nation.

Under this bill, every undocumented individual currently residing in the U.S. will have the opportunity to obtain a visa authorizing them to remain in the United States and work for 3 years, after which time they may apply for the temporary worker visa program which has a built in path to permanent legal residency.

Every year, millions of people enter this country legally, in a monitored

and controlled manner. Although a majority enter legally, an increasing number of people risk their lives to cross our borders illegally. According to the U.S. Border Patrol apprehension statistics, it is estimated that almost 4 million people crossed our borders illegally in 2002. The majority of these people are seeking the American dream, looking for a good paying job that will enable them to provide a better life for themselves and their families. We must recognize that as long as there are jobs available and employers in need of workers, people will continue to migrate. Our Nation was built by immigrants, and like those who came hundreds of years ago, this population represents a significant portion of our workforce.

In recent years, improved security and enhanced infrastructure in California and Texas have created a funneling effect through the Sonoran desert, which straddles Arizona and the Mexican State of Sonora. This is easily the most treacherous portion of the southern border, and in recent years, it has become more dangerous. Last fiscal year, an estimated 320 people died crossing the southern border into this country, 145 of those deaths were in the Arizona desert. Since last October, over 200 people have died, 113 along the Arizona border. The Arizona Republic found that undocumented immigrants are seven times as likely to die crossing the Arizona-Mexico border now than they were 5 years ago.

Many people desperate to cross the border pay large sums of money to human smugglers who guarantee their entrance into the U.S. Our Nation witnessed the extreme danger of human smugglers first hand in May when 100 people were found packed into a tractor trailer truck at a truck stop in Victoria, TX. These people, abandoned by their smugglers, were trapped for hours in the extreme desert heat. Nineteen people died as a result.

These are not merely numbers, these figures represent men, women, and children. This unnecessary loss of human life deserves our Nation's attention and should compel all of us to action. Our current border and immigration policies create a contradictory situation whereby we attempt to keep people from crossing our borders illegally but reward those who survive the dangerous journey with bountiful employment opportunities. This system is not sustainable.

In addition to the human tragedy, this mass migration also represents a threat to our national security. Although over 99 percent of the people crossing our borders do not intend to harm Americans, we must be cognizant of the fact that a small number do. As long as we are unable to control and monitor who enters our country and what they bring in, Americans will not be safe. We must establish a system by which to allow people seeking work to enter the country in a safe manner, through controlled ports of entry—freeing up Federal agents to monitor the border and focus their efforts on the individuals who do pose a potential threat to our national security.

We can no longer afford to bury our heads in the sand and expect this problem to go away. Anyone who has visited the border and seen the challenges we face first hand or who hears of the number of unnecessary deaths, must recognize that we can no longer ignore this problem. It is time we dispense with partisan politics and put human lives and our national security above special interest groups. I hold no illusions. Reforming our Nation's immigration laws will not be an easy task. This will be a long and arduous process, however we must not let the difficulty dissuade us from trying, and this legislation represents a meaningful first step. I am committed to this issue and to working towards a balanced solution to this crisis.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Border Security and Immigration Improvement Act''.

SEC. 2. NEW NONIMMIGRANT WORKER VISA CATEGORIES.

Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended—

(1) by striking ''or (iii)'' and inserting ''(iii)''; and

(2) by striking ''and the alien spouse'' and inserting the following:

''or (iv)(a) subject to section 218A, who is coming to the United States to fill a job opportunity for temporary full-time employment at a place in the United States; or (b) whose status is adjusted under section 251 and who (except in the case of a spouse or child provided derivative status) is employed in the United States; and, except as provided in sections 218A and 251, the alien spouse''.

SEC. 3. ADMISSION OF TEMPORARY H–4A WORKERS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

''ADMISSION OF TEMPORARY H–4A WORKERS

''SEC. 218A. (a) PETITION.—In the case of a petition under section 214(c) initially to grant an alien nonimmigrant status described in section 101(a)(15)(H)(iv)(a), the Secretary of Homeland Security—

''(1) shall impose a fee on the petitioning employer of—

''(A) $1000, in the case of an employer employing more than 500 employees; or

''(B) $500, in the case of any other employer; and

''(2) shall approve the petition only after determining that the petitioning employer—

''(A) has satisfied the recruitment requirements of subsection (i); and

''(B) has attested in such petition that the employer—

''(i) with respect to the employment eligibility confirmation system established under subsection (j)—

''(I) will use such system to verify the alien's identity and employment authorization after such approval and before the commencement of employment;

''(II) will advise the alien of any nonconfirmation with respect to the alien provided by such system; and

''(III) will provide the alien an opportunity to correct the information in the system causing such nonconfirmation before revoking the offer of employment in order that the requirement of subclause (I) is satisfied before the commencement of employment;

''(ii) will provide the nonimmigrant the same benefits, wages, and working conditions provided to other employees similarly employed in the same occupation at the place of employment;

''(iii) will require the nonimmigrant to work hours commensurate with those of such other employees;

''(iv) will not ask the nonimmigrant to refrain from accepting work for any competitor of the employer;

''(v) did not displace and will not displace a United States worker (as defined in section 212(n)(4)) employed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of the petition; and

''(vi) otherwise will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to the nonimmigrant.

''(b) NONIMMIGRANT VISAS.—

''(1) NO FEE.—Neither the Secretary of State, nor the Secretary of Homeland Security, shall authorize the imposition of an application fee on an alien seeking a nonimmigrant visa under section 101(a)(15)(H)(iv)(a) in an amount that exceeds the actual cost of processing and adjudicating such application.

''(2) BIOMETRIC IDENTIFIERS.—The Secretary of State and the Secretary of Homeland Security shall issue to aliens obtaining status under section 101(a)(15)(H)(iv)(a) only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers. The Secretary of State and the Secretary of Homeland Security shall jointly establish document authentication standards and biometric identifier standards to be employed on such visas and other travel and entry documents from among those biometric identifiers recognized by domestic and international standards organizations.

''(3) PHYSICAL EXAMINATION.—Prior to the issuance of a nonimmigrant visa to any alien under section 101(a)(15)(H)(iv)(a), the consular officer shall require such alien to submit to a medical examination to ascertain whether such alien is ineligible to receive a visa on a health-related ground.

''(4) PRIORITY FOR VISITOR VISAS FOR IMMEDIATE RELATIVES.—In the case of an alien who is the spouse, parent, son, or daughter of a nonimmigrant described in section 101(a)(15)(H)(iv), if the alien is applying for a nonimmigrant visa under section 101(a)(15)(B)—

''(A) the alien's application shall be given priority; and

''(B) notwithstanding sections 214(b) and 291, in establishing that the alien has a residence in a foreign country which the alien has no intention of abandoning, the burden of proof required shall not be greater than a preponderance of the evidence.

''(5) VISITS OUTSIDE UNITED STATES.—Pursuant to regulations established by the Secretary of Homeland Security, an alien having status as a nonimmigrant described in section 101(a)(15)(H)(iv)(a) may make brief visits outside the United States and may be readmitted without having to obtain a new

visa. Such periods of time spent outside the United States shall not cause the period of authorized admission in the United States to be extended.

''(c) PERIOD OF AUTHORIZED ADMISSION.—

''(1) INITIAL PERIOD.—In the case of a nonimmigrant described in section 101(a)(15)(H)(iv)(a), the initial period of authorized admission as such a nonimmigrant shall be 3 years.

''(2) RENEWALS.—

''(A) IN GENERAL.—The Secretary of Homeland Security may extend such period not more than once, in a 3-year increment.

''(B) TREATMENT OF LONG-TERM EMPLOYEES.—In any case in which a nonimmigrant has held a job for 3 years or more, an extension under subparagraph (A) may be granted only upon the filing of a petition by the nonimmigrant's employer establishing that—

''(i) not earlier than 2 months prior to such filing, the employer advertised the availability of the nonimmigrant's job exclusively to United States workers for not less than 14 days using the electronic job registry described in subsection (i); and

''(ii) the employer offered the job to any eligible United States worker who applied by means of such registry and was equally or better qualified for such job and available at the time and place of need.

(C) NO FEES.—The Secretary of Homeland Security shall not impose a fee on a petitioning employer in the case of a petition to extend the stay of an alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a).

''(3) LOSS OF EMPLOYMENT.—

''(A) IN GENERAL.—Subject to subsection (e), any period of authorized admission of an alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a) shall terminate if the nonimmigrant is unemployed for 45 or more consecutive days.

''(B) RETURN TO FOREIGN RESIDENCE.—An alien whose period of authorized admission terminates under subparagraph (A) shall be required to return to the country of the alien's nationality or last residence.

''(C) VISA VALIDITY.—An alien whose period of authorized admission terminates under subparagraph (A), and who returns to the country of the alien's nationality or last residence under subparagraph (B), may reenter the United States on the basis of the same visa to resume the status existing at the time of the alien's departure if the alien satisfies all the other requirements otherwise applicable to an alien seeking an initial grant of status under section 101(a)(15)(H)(iv)(a). The period of authorized admission of an alien entering under this subparagraph shall expire on the date on which it would have expired had the alien not been required to depart the United States.

''(d) RETURN TRANSPORTATION.—

''(1) IN GENERAL.—In the case of an alien who is provided nonimmigrant status under section 101(a)(15)(H)(iv)(a) and who is dismissed without cause from employment by the employer before the end of the period of authorized admission, the employer shall be liable for the reasonable costs of return transportation of the alien abroad and may not require or permit the alien to reimburse, or otherwise compensate, the employer for part or all of such costs.

''(2) CIVIL MONEY PENALTY.—If the Secretary of Homeland Security finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1), the Secretary—

''(A) shall require the employer to pay each nonimmigrant with respect to whom such a failure occurs the costs owed under paragraph (1); and

''(B) may impose a civil money penalty in an amount not to exceed $5,000 for each nonimmigrant with respect to whom such a failure occurs.

''(e) PORTABILITY.—

''(1) IN GENERAL.—A nonimmigrant alien described in paragraph (2) who was previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(iv)(a) is authorized to accept new employment upon the filing by the prospective employer of a new petition on behalf of such nonimmigrant as provided under subsection (a). The Secretary of Homeland Security shall impose a fee for such a petition consistent with the fee imposed under subsection (a)(1). Employment authorization shall continue for such alien until the new petition is adjudicated. If the new petition is denied, no other such petition is pending, and the alien has ceased employment with the previous employer, such authorization shall cease and the alien shall be required to return to the country of the alien's nationality or last residence in accordance with subsection (c)(3).

''(2) ALIENS DESCRIBED.—A nonimmigrant alien described in this paragraph is a nonimmigrant alien—

''(A) who has been lawfully admitted into the United States;

''(B) on whose behalf an employer has filed a nonfrivolous petition for new employment not later than 45 days after the last date on which the employee was lawfully employed in the United States; and

''(C) who, subsequent to such lawful admission, has not been employed without authorization in the United States.

''(f) TREATMENT OF SPOUSES AND CHILDREN.—

''(1) SPOUSES.—A spouse of an alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a) shall not be eligible for derivative status by accompanying or following to join the alien. Such a spouse may obtain status under section 101(a)(15)(H)(iv)(a) based only on an independent petition filed by an employer petitioning under subsection (a) with respect to the employment of the spouse.

''(2) CHILDREN.—A child of an alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a) shall not be eligible for the same nonimmigrant status unless—

''(A) the child is accompanying or following to join the alien; and

''(B) the alien is the sole custodial parent of the child or both custodial parents of the child have obtained such status.

''(3) SPECIAL RULE FOR SPOUSES AND CHILDREN OF FORMER H–4B NONIMMIGRANTS.—In the case of a spouse or child of an alien who was a nonimmigrant described in section 101(a)(15)(H)(iv)(b) before obtaining a change in nonimmigrant status to that of a nonimmigrant under section 101(a)(15)(H)(iv)(a), the spouse or child shall be eligible for nonimmigrant status under section 101(a)(15)(H)(iv)(a) if the principal alien is the only alien among them authorized to be employed in the United States.

''(g) GROUNDS FOR INELIGIBILITY.—

''(1) BAR TO FUTURE VISAS FOR CONDITION VIOLATIONS.—Any alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a) shall not again be eligible for the same nonimmigrant status if the alien violates any term or condition of such status.

''(2) ALIENS UNLAWFULLY PRESENT.—Any alien who enters the United States after August 1, 2003, without being admitted or paroled shall be ineligible for nonimmigrant status described in section 101(a)(15)(H)(iv)(a) during the 3-year period beginning on the date of such alien's departure or removal from the United States,

''(h) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS.—

''(1) IN GENERAL.—For purposes of adjustment of status under section 245(a), employment-based immigrant visas shall be made available without numerical limitation to an alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a) upon the filing of a petition for such a visa—

''(A) by the alien's employer; or

''(B) by the alien, but only if the alien has maintained such nonimmigrant status for at least 3 years.

''(2) CONSTRUCTION.—The fact that an alien is the beneficiary of a petition described in paragraph (1), or has otherwise sought permanent residence in the United States, shall not constitute evidence of ineligibility for nonimmigrant status under section 101(a)(15)(H)(iv)(a).

''(3) SPECIAL RULE FOR FORMER H–4B NONIMMIGRANTS.—In the case of an alien who was a nonimmigrant described in section 101(a)(15)(H)(iv)(b) before obtaining a change in nonimmigrant status to that of a nonimmigrant under section 101(a)(15)(H)(iv)(a), in determining admissibility for purposes of adjustment of status under section 245(a), the grounds for inadmissibility specified in paragraphs (6)(A), (6)(B), (6)(C), (7)(A), and (9)(B) of section 212(a) shall not apply.

''(i) MANDATORY USE OF ELECTRONIC JOB REGISTRY.—

''(1) ADVERTISEMENT OF JOB OPPORTUNITY TO U.S. WORKERS.—In order to satisfy the recruitment requirements of this subsection, the employer shall have—

''(A) taken good faith steps to recruit United States workers for the job for which the nonimmigrant is sought, including advertising the job opportunity exclusively to United States workers for not less than 14 days on an electronic job registry established by the Secretary of Labor (or a designee of the Secretary, which may be a nongovernmental entity) to carry out this section;

''(B) offered the job to any United States worker who applied by means of such registry and was equally or better qualified for the job for which the nonimmigrant was sought; and

''(C) advertised and offered the job to individuals other than United States workers solely by means of such registry and after the termination of such 14-day period.

''(2) EXCEPTION.—The requirements of this subsection shall not apply to any employer who is continuing—

''(A) employment of an employee granted a change in nonimmigrant status from that of a nonimmigrant under section 101(a)(15)(H)(iv)(b) to that of a nonimmigrant under section 101(a)(15)(H)(iv)(a); or

''(B) self-employment after being granted such a change in status.

''(3) AVAILABILITY OF JOB REGISTRY INFORMATION.—

''(A) CIRCULATION IN INTERSTATE EMPLOYMENT SERVICE SYSTEM.—The Secretary of Labor shall ensure that job opportunities advertised on the electronic job registry established under this subsection are circulated through the interstate employment service system and otherwise furnished to State public employment services throughout the country.

''(B) INTERNET.—Consistent with subsection (c)(2)(B) and this subsection, the Secretary of Labor shall ensure that the electronic job registry established under this subsection may be accessed by all interested workers, employers, and labor organizations by means of the Internet.

''(4) DEFINITION.—For purposes of this subsection, the term 'United States worker' means an individual who—

''(A) is a citizen or national of the United States; or

''(B) is an alien who is lawfully admitted for permanent residence, is admitted as a refugee under section 207, is granted asylum under section 208, or is an immigrant otherwise authorized, by this Act or by the Secretary of Homeland Security, to be employed.

''(j) EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall establish a confirmation system through which the Secretary (or a designee of the Secretary, which may be a nongovernmental entity)—

''(A) responds to inquiries made by persons and other entities (including those made by the transmittal of data from machine-readable documents) at any time through a toll-free telephone line or other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed; and

''(B) maintains records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under the this Act.

''(2) INITIAL RESPONSE.—The confirmation system shall provide confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative nonconfirmation, the confirmation system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

''(3) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Secretary of Homeland Security shall specify, in consultation with the Commissioner of Social Security, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation within 10 working days after the date of the tentative nonconfirmation. When final confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

''(4) DESIGN AND OPERATION OF SYSTEM.—The confirmation system shall be designed and operated—

''(A) to maximize its reliability and ease of use consistent with insulating and protecting the privacy and security of the underlying information;

''(B) to respond to all inquiries made by employers seeking to employ nonimmigrants described in section 101(a)(15)(H)(iv) on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

''(C) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

''(D) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

''(i) the selective or unauthorized use of the system to verify eligibility;

''(ii) the use of the system prior to an offer of employment; or

''(iii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

''(5) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—

''(A) IN GENERAL.—As part of the confirmation system, the Commissioner of Social Security, in consultation with the entity responsible for administration of the system, shall use the information maintained by the Commissioner to assist in confirming (or not confirming) the identity and employment eligibility of an individual in a manner that is determined by the Secretary of Homeland Security to be reliable, secure, not susceptible to identity theft, and to minimize fraud. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

''(6) RESPONSIBILITIES OF THE SECRETARY.—As part of the confirmation system, the Secretary of Homeland Security, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under paragraphs (2) and (3), compares the name of the alien, the alien identification or authorization number, the date, and the workplace location which are provided in an inquiry against such information maintained by the Secretary in order to confirm (or not confirm) the identity and employment eligibility of an individual in a manner that is determined by the Secretary to be reliable, secure, not susceptible to identity theft, and to minimize fraud.

''(7) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in paragraph (3).

''(8) LIMITATION ON USE.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this subsection for any other purpose other than as provided for under this section or section 251.

''(k) ENFORCEMENT OF EMPLOYER OBLIGATIONS.—

''(1) IN GENERAL.—

''(A) SECRETARY OF HOMELAND SECURITY.—Except as provided in paragraphs (2) and (3), if the Secretary of Homeland Security finds, after notice and opportunity for a hearing, a failure to meet a condition of subsection (a)(2), the Secretary may impose a civil money penalty in an amount not to exceed $10,000 for each nonimmigrant with respect to whom such a failure occurs.

''(B) SECRETARY OF LABOR.—Except as provided in paragraphs (2) and (3), the Secretary of Labor exclusively may exercise any enforcement authority granted in the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to address a failure to meet a condition of subsection (a)(2).

''(2) PROHIBITION ON FEE REIMBURSEMENT.—An employer who has filed a petition under section 214(c) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(iv)(a) may not require the alien to reimburse, or otherwise compensate, the employer for part or all of the cost of the fee imposed under subsection (a)(1). It is a violation of this paragraph for such an employer otherwise to accept any reimbursement or compensation from such an alien as a condition on employment. If the Secretary of Homeland Security finds, after notice and opportunity for a hearing, a violation of this paragraph, the Secretary may impose a civil money penalty in an amount not to exceed $10,000 for each such violation.

''(3) REQUIRED USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to use the employment eligibility confirmation system established under subsection (j) to verify a nonimmigrant's identity and employment authorization before the commencement of employment, or any other violation of subsection (a)(2)(B)(i), the Secretary may impose a civil money penalty in an amount not to exceed $5,000 for each nonimmigrant with respect to whom such a violation occurs.

''(4) WAGE PROTECTIONS.—For purposes of subsection (a)(2)(B)(ii), all provisions of Federal, State, and local law pertaining to payment of wages shall apply to nonimmigrants described in section 101(a)(15)(H)(iv)(a) in the same manner as they apply to other employees similarly employed in the same occupation at the place of employment.

''(l) LABOR RECRUITERS.—The Secretary of Labor shall develop rules regulating the conduct of labor recruiters under this section.''.

(b) EXEMPTION FROM NUMERICAL LIMITATIONS ON ADJUSTMENT OF STATUS.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

''(F) Nonimmigrants described in section 101(a)(15)(H)(iv)(a) whose status is adjusted to permanent resident under section 245(a).''.

(c) CONFORMING AMENDMENT REGARDING PRESUMPTION OF NONIMMIGRANT STATUS.—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)) is amended by striking ''(other than a nonimmigrant described in subparagraph (H)(i), (L), or (V) of section 101(a)(15))'' and inserting ''(other than a nonimmigrant described in subparagraph (L) or (V) of section 101(a)(15), and other than a nonimmigrant described in clause (i) or (vi)(a) of section 101(a)(15)(H))''.

(d) ASSISTANCE TO FOREIGN GOVERNMENTS.—The Secretary of Labor and the Secretary of State shall consult with and advise foreign governments in the use and construction of facilities to assist their nationals in obtaining nonimmigrant status under section 101(a)(15)(H)(iv)(a) of the Immigration and Nationality Act, as added by section 2.

(e) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218 the following:

''Sec. 218A. Admission of temporary H–4A workers.''.

SEC. 4. ADJUSTMENT OF STATUS TO THAT OF H–4B NONIMMIGRANT.

(a) IN GENERAL.—Chapter 5 of title II of the Immigration and Nationality Act (8 U.S.C. 1255 et seq.) is amended by inserting after section 250 the following:

''ADJUSTMENT OF STATUS TO THAT OF H–4B NONIMMIGRANTS

''SEC. 251. (a) IN GENERAL.—The Secretary of Homeland Security may adjust the status of an alien to that of a nonimmigrant under section 101(a)(15)(H)(iv)(b) if the alien meets the following requirements:

''(1) UNLAWFUL RESIDENCE SINCE 2003.—

''(A) IN GENERAL.—The alien must establish that the alien entered the United States before August 1, 2003, and has resided in the United States in an unlawful status since such date and through the date the application is filed under this subsection.

''(B) NONIMMIGRANTS.—In the case of an alien who entered the United States as a nonimmigrant before August 1, 2003, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such date through the passage of time or the alien's unlawful status was known to the Federal Government as of such date.

''(C) EXCHANGE VISITORS.—If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien must establish that the alien was not subject

to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

''(2) ADMISSIBLE AS IMMIGRANT.—The alien must establish that the alien—

''(A) is not inadmissible to the United States under paragraph (2), (3), or (4) of section 212(a);

''(B) has not been convicted of any felony or misdemeanor committed in the United States, excluding crimes related to unlawful entry or presence in the United States and crimes related to document fraud undertaken for the purpose of satisfying a requirement of this Act or obtaining a benefit under this Act; and

''(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(3) EMPLOYED.—The alien must establish that the alien—

''(A) was employed in the United States before August 1, 2003, and has worked in the United States since such date and through the date the application is filed under this subsection; or

''(B) is the spouse or child of an alien who satisfies the requirement of subparagraph (A).

''(b) APPLICATION FEE.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall provide for a fee to be charged for the filing of applications for adjustment of status under this section. Such fee shall be sufficient to cover the administrative and other expenses incurred in connection with the review of such applications.

''(2) PENALTY PAYMENT.—

''(A) IN GENERAL.—In addition to the fee imposed under paragraph (1), except as provided in subparagraph (B), the Secretary of Homeland Security may accept an application for adjustment of status under this section only if the alien remits with such application $1,500, but such sum shall not be required from a child under the age of 17.

''(B) WAGE GARNISHMENT.—

''(i) IN GENERAL.—In lieu of paying the sum under subparagraph (A) upon filing the application, an alien may elect to pay such sum by having the Secretary of Homeland Security garnish 10 percent of the disposable pay of the alien, in accordance with section 3720D of title 31, United States Code.

''(ii) INTEREST.—In the case of an outstanding debt created by an election under clause (i), the Secretary of Homeland Security shall charge an annual fixed rate of interest on the debt that is equal to the bond equivalent rate of 5-year Treasury notes auctioned at the final auction held prior to the date on which interest begins to accrue.

''(iii) FINAL PAYMENT.—Any outstanding debt created by an election under clause (i), and any interest due under clause (ii), shall be considered delinquent if not paid in full 30 days after the end of the alien's period of authorized stay as a nonimmigrant described in section 101(a)(15)(H)(iv)(b).

''(3) USE OF FUNDS FOR ADMINISTERING PROGRAM.—

''(A) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'H–4B Nonimmigrant Applicant Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees and penalties collected under this subsection.

''(B) EXPENDITURE.—Amounts deposited into the H–4B Nonimmigrant Petitioner Account shall remain available to the Secretary of Homeland Security until expended to carry out duties related to nonimmigrants described in section 101(a)(15)(H)(iv)(b).

''(c) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this section.

''(d) STAY OF REMOVAL.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall provide by regulation for an alien subject to a final order of deportation or removal to seek a stay of such order based on the filing of an application under subsection (a).

''(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Secretary of Homeland Security shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Secretary has rendered a final administrative determination to deny the application.

''(e) PERIOD OF AUTHORIZED STAY.—In the case of a nonimmigrant described in section 101(a)(15)(H)(iv)(b), the period of authorized stay as such a nonimmigrant shall be 3 years. The Secretary of Homeland Security may not authorize a change from such nonimmigrant classification to any other immigrant or nonimmigrant classification until the termination of such 3-year period. Such period may not be extended except in the discretion of the Secretary and for a reasonable time solely in order to accommodate the processing of an application for a change in nonimmigrant status to that of a nonimmigrant under section 101(a)(15)(H)(iv)(a) pursuant to a petition described in section 218A(a).

''(f) REQUIRED USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—

''(1) IN GENERAL.—It is unlawful for a person or other entity to hire for employment in the United States a nonimmigrant described in section 101(a)(15)(H)(iv)(b) without—

''(A) using the employment eligibility confirmation system established under section 218A(j) to verify the nonimmigrant's identity and employment authorization before the commencement of employment;

''(B) advising the nonimmigrant of any nonconfirmation with respect to the nonimmigrant provided by such system; and

''(C) providing the nonimmigrant an opportunity to correct the information in the system causing such nonconfirmation before revoking the offer of employment in order that the requirement of subparagraph (A) is satisfied before the commencement of employment.

''(2) CIVIL MONEY PENALTY.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a violation of paragraph (1), the Secretary may impose a civil money penalty in an amount not to exceed $5,000 for each nonimmigrant with respect to whom such a violation occurs.

''(g) EXTENSION OF H–4A LABOR PROTECTIONS TO H–4B NONIMMIGRANTS.—A person or other entity employing a nonimmigrant described in section 101(a)(15)(H)(iv)(b) shall comply with the requirements of clauses (ii) through (vi) of section 218A(a)(2) in the same manner as an employer having an approved petition described in section 218A(a). The Secretary of Labor exclusively may exercise any enforcement authority granted in the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to address a failure to meet a requirement of this subsection.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 250 the following:

''Sec. 251. Adjustment of status to that of H–4B nonimmigrant.''.

SEC. 5. INCREASED FUNDS FOR UNITED STATES EMPLOYMENT SERVICE.

There are authorized to be appropriated to the Secretary of Labor such additional sums as may be necessary for fiscal year 2004 and subsequent fiscal years to permit the United States Employment Service to assist State public employment services in meeting any increased demand for services by employers and persons seeking employment engendered by the amendments made by this Act.

By Mr. CHAMBLISS (for himself and Mr. MILLER):

S. 1462. A bill to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the Cumberland Island National Seashore Wilderness Boundary Act. With the introduction of this important legislation, we will be able to better preserve and manage one of Georgia's unique islands. The purpose of this bill is to allow for more efficient management of the Cumberland Island National Seashore and to preserve the historical and ecological significance of the island.

As one of Georgia's Golden Isles, Cumberland Island is truly a historical and ecological masterpiece encompassing 36,415 acres. The island contains a 5000-year history of human habitation that is inscribed into the natural landscape of the island. This history can be seen by visiting the early Indian burial grounds to the vast plantations that were once home to abundant corn, cotton, and rice fields, as well as the workers who tended the land. And we cannot forget about the rich ecological environment found on Cumberland Island. It is one that many sea turtles, marsh microorganisms, and abundant shore birds call home amongst the numerous dune fields, salt marshes, and maritime forest areas. These historic and natural resources are important elements of Cumberland Island's past, present, and future.

As many of you know, I am an avid outdoorsman and conservationist. I am a supporter of sound wildlife management and the preservation of our Nation's unique and complex history. Another key point that I wish to make is that this history has been preserved for all of us to see and experience. Under the enactment of Public Law 97–250, 96 Stat. 709, in 1982, Congress designated approximately 8,840 acres of Cumberland Island as wilderness under the national wilderness preservation system and authorized an additional 11,718 acres to be designated as potential wilderness. Currently, the main road on the island passes through the designated wilderness area. Due to the location of the designated wilderness area, access to historic settlements such as: Plum Orchard Mansion and Dungeness, both former homes of Andrew Carnegie descendants; the First African Baptist Church established in 1893 and rebuilt in the 1930s; as well as the High Point/Half Moon Bluff historic district, is severely restricted.

Such restrictions make it extremely difficult for visitors to experience this unique collection of Georgia's history and diverse ecology. I believe that history and nature can best be appreciated when one is given the opportunity to experience it first hand. It is vitally important for the unique history and ecology of Cumberland Island to be properly managed and protected so that many generations to come will be able to experience this beautiful treasure found in the State of Georgia.

The nature and history of Cumberland Island needs to be preserved and managed in such a manner that will allow many generations to experience this golden treasure of Georgia. The Cumberland Island National Seashore Wilderness Boundary of 2003 will do just that. This bill will allow for greater access to key areas of the island by removing the Main Road, the Spur Road to Plum Orchard, as well as the North Cut Road from the previously designated wilderness area. Further, the bill allows for the addition of 210 acres to the wilderness area upon acquisition by the National Park Service. I should clarify and stress that this bill does not suggest that we open this land to the public for further habitation and degradation of the area's natural history and ecological habitats. The purpose of this bill is very simple—I want to improve the management and preservation of Cumberland Island's history and diverse ecosystem so that others in the future will be able to experience and learn about the treasures of the Golden Isles and all that they represent.

It is crucial that Cumberland Island's history and unique ecosystem is properly managed and protected. We want to ensure that these treasures are available to all of our Nation's citizens to experience and enjoy. This bill allows Congress to address this issue and to make the necessary changes so that Cumberland Island can remain as one of Georgia's treasured Golden Isles for many years to come.

By Mr. HAGEL (for himself and Mr. DORGAN):

S. 1464. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland to encourage the continued use of the property for farming, and for other purposes; to the Committee on Finance.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Beginning Farmers and Ranchers Tax Incentive Act of 2003''.

SEC. 2. EXCLUSION OF GAIN FROM SALE OF CERTAIN FARMLAND.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by adding after section 121 the following new section:

''SEC. 121A. EXCLUSION OF GAIN FROM SALE OF QUALIFIED FARM PROPERTY.

''(a) EXCLUSION.—In the case of a natural person, gross income shall not include—

''(1) 100 percent of the gain from the sale or exchange of qualified farm property to a first-time farmer (as defined in section 147(c)(2)(C) (determined without regard to clause (i)(II) thereof)) who certifies that the use of such property shall be as a farm for farming purposes for not less than 10 years after such sale or exchange,

''(2) 50 percent of the gain from the sale or exchange of qualified farm property to any other person who certifies that the use of such property shall be as a farm for farming purposes for not less than 10 years after such sale or exchange, and

''(3) 25 percent of the gain from the sale or exchange of qualified farm property to any other person for any other use.

''(b) LIMITATION ON AMOUNT OF EXCLUSION.—

''(1) IN GENERAL.—The amount of gain excluded from gross income under subsection (a) with respect to any taxable year shall not exceed $500,000 ($250,000 in the case of a married individual filing a separate return), reduced by the aggregate amount of gain excluded under subsection (a) for all preceding taxable years.

''(2) SPECIAL RULE FOR JOINT RETURNS.—The amount of the exclusion under subsection (a) on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under paragraph (1) for any succeeding taxable year.

''(c) QUALIFIED FARM PROPERTY.—

''(1) QUALIFIED FARM PROPERTY.—For purposes of this section, the term 'qualified farm property' means real property located in the United States if, during periods aggregating 3 years or more of the 5-year period ending on the date of the sale or exchange of such real property—

''(A) such real property was used as a farm for farming purposes by the taxpayer or a member of the family of the taxpayer, and

''(B) there was material participation by the taxpayer (or such a member) in the operation of the farm.

''(2) DEFINITIONS.—For purposes of this subsection, the terms 'member of the family', 'farm', and 'farming purposes' have the respective meanings given such terms by paragraphs (2), (4), and (5) of section 2032A(e).

''(3) SPECIAL RULES.—For purposes of this section, rules similar to the rules of paragraphs (4) and (5) of section 2032A(b) and paragraphs (3) and (6) of section 2032A(e) shall apply.

''(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsection (e) and subsection (f) of section 121 shall apply.

''(e) TREATMENT OF DISPOSITION OR CHANGE IN USE OF PROPERTY.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified farm property transferred to the taxpayer in a sale or exchange described in paragraph (1) or (2) of subsection (a), then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) 10 percent of the taxpayer's adjusted basis in the property on the date such property was transferred to the taxpayer.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

''If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1 through 5	100
Year 6	80
Year 7	60
Year 8	40
Year 9	20
Years 10 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the date of the sale or exchange described in paragraph (1) or (2) of subsection (a).

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of any property the sale or exchange of which to the taxpayer is described in paragraph (1) or (2) of subsection (a) as a farm for farming purposes.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in any property the sale or exchange of which to the taxpayer is described in paragraph (1) or (2) of subsection (a).

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the property agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the property shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(B) NO RECAPTURE BY REASON OF HARDSHIP.—The increase in tax under this subsection shall not apply to any disposition of property or cessation of the operation of any property as a farm for farming purposes by reason of any hardship as determined by the Secretary.''.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after the item relating to section 121 the following new item:

''Sec. 121A. Exclusion of gain from sale of qualified farm property.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to any sale or exchange on or after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. FRIST (for himself and Mr. ALEXANDER):

S. 1465. A bill to authorize the President to award a gold medal on behalf of Congress honoring Wilma G. Rudolph, in recognition of her enduring contributions to humanity and women's athletics in the United States and the world; to the Committee on Banking, Housing, and Urban Affairs.

Mr. FRIST. Mr. President, today Senator ALEXANDER and I introduce legislation to award a Congressional Gold Medal to Clarksville, Tennessee native Wilma Rudolph for her contributions to women's athletics and racial

equality in the United States and the world.

I take a moment to say a few words about this remarkable woman.

Wilma was the 20th of 22 children in her packed family. After overcoming scarlet fever, double pneumonia and polio, Wilma went onto win three Olympic gold medals in track and field. She became an international star and a hero to the people of Tennessee. Wilma showed the world that hard work and determination could overcome nearly anything.

Wilma was inducted into the National Track and Field Hall of Fame in 1973 and received the Humanitarian of the Year Award of the Special Olympics in 1985. She was the first woman to ever receive the National Collegiate Athletic Association's Silver Anniversary Award in 1987. And in 1989 earned the Jackie Robinson Image Award of the National Association for the Advancement of Colored People. Wilma remains the only woman ever to have received the National Sports Award, which she was granted in 1993.

Wilma Rudolph is an inspiration to all Tennesseans and is eminently deserving of the Congressional Gold Medal.

I urge my colleagues to confer this well earned honor.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) Wilma G. Rudolph of Clarksville, Tennessee, the 20th of 22 children, overcame a series of childhood diseases, including scarlet fever, double pneumonia, and polio, to become an athletic pioneer and champion in the State of Tennessee, the United States, and the world, first as an outstanding basketball player and track athlete in Tennessee, then as a 3-time gold medal winner in the 1960 Olympics in Rome, and finally as a pioneer for racial equality, goodwill, and justice;

(2) Wilma G. Rudolph's winning of 3 gold medals in the 1960 Olympics served as an inspiration to athletes of all sports, all races, and both genders;

(3) Wilma G. Rudolph's ability to inspire endured after her performance in the 1960 Olympics, as demonstrated by—

(A) her receipt in 1987 of the National Collegiate Athletic Association's Silver Anniversary Award, the first time a woman ever received the award;

(B) her receipt of the 1989 Jackie Robinson Image Award of the National Association for the Advancement of Colored People (NAACP);

(C) her induction into the National Track and Field Hall of Fame in 1973;

(D) her receipt of the 1985 Humanitarian of the Year Award of the Special Olympics; and

(E) her receipt in 1993 of the National Sports Award, the only time a woman has received the award;

(4) Wilma G. Rudolph, a graduate of Tennessee State University, a successful businessperson, a mother, an athlete, a coach, and a teacher, who passed away on November 12, 1994, will forever remain an inspiration to all able-bodied and physically-challenged individuals in overcoming odds;

(5) Wilma G. Rudolph blazed a trail that helped all people understand the contributions of women to the world of athletics;

(6) the legacy of Wilma G. Rudolph continues to serve as a particular inspiration to women; and

(7) Wilma G. Rudolph's life truly embodied the American values of hard work, determination, and love of humanity.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to award to the family of Wilma G. Rudolph, on behalf of Congress, a gold medal of appropriate design honoring Wilma G. Rudolph (posthumously) in recognition of her outstanding and enduring contributions to humanity and to women's athletics, in the United States and the world.

(b) DESIGN AND STRIKING.—For the purpose of the award referred to in subsection (a), the Secretary of the Treasury (in this Act referred to as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, overhead expenses, and the cost of the gold medal.

SEC. 4. STATUS AS NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. FUNDING.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

By Ms. MURKOWSKI:

S. 1466. A bill to facilitate the transfer of land in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, the Alaska Land Transfer Acceleration Act of 2003 will transfer millions of acres of land to Alaska Natives, the State of Alaska and to Native Corporations by 2009. The Federal agencies in Alaska have management jurisdiction of over 63 percent of the State. It is time to transfer these public lands from Federal Government control to private ownership. This legislation creates a strategic plan for the Bureau of Land Management to finally resolve long-standing land survey, land entitlement issues and land claims issues, some of which date back to 1906. Since 1906 Congress has enacted other legislation that requires the BLM to transfer public lands to Alaska Natives, the State of Alaska and to Alaska Native Corporations.

The land conveyance program is the largest and most complex of any in United States history. For many years, BLM's primary goal was to convey title to unsurveyed lands to the State and Native Corporations by tentative approval and interim conveyance, respectively. This management practice allowed the State and Native Corporations to manage their lands, subject only to the survey of the final boundary.

This legislation will accelerate release of lands for conveyance to Native coporations and the State of Alaska. It will complete land patterns to allow land owners to more efficiently manage their land. It will clarify that certain minerals can be transferred to Native landowners. And frankly, split estates can be minimized. The University will be given the opportunity to select the remaining Federal interests in lands the University already owns, that will likely produce economic opportunities not presently available under this land lock.

The complexity of land patterns and uses in Alaska is evident in the presence of federal mining claims that are within lands owned or selected by the State of Alaska. Our legislation would clarify miners' right to convert from Federal to State claims without jeopardizing ongoing mining operations. At the same time, BLM would be allowed to expedite conveyances to the State. Properly maintained Federal claims will continue to be excluded from conveyance. Entitlements to the State will remain secure. The miner will decide when or whether to convert his claims to State claims.

For too many years, individuals, Native corporations and the State have been patiently waiting to receive title to their land. In 1958 the State of Alaska was promised 104 million acres of land, and has to date received final title to only 42 million acres; less than half of what is due. Of the 44 million acres of land that the Native Corporations are entitled to, only about a third has been conveyed or about 15 million acres. Worse, yet, are the 2,500 parcels pending title to Native individuals out of 16,000 parcels. Almost 14,000 parcels are still awaiting basic adjudication to even make a determination of land transfer. Too much land is hanging in the balance that must be surveyed and patented to rightful owners. Between now and the sunset of this bill in 2009, more than 89 million acres must be surveyed on State and Native Corporation lands. The lands that are awaiting survey do not include lands that will eventually be titled to Native individuals; these lands too must first be surveyed.

While some Native allotments have been conveyed, issues have arisen to challenge final conveyance to the land. Such challenges have included whether actual use of land occurred; the location of the parcel; or even who should receive title to the land. Sadly, some of the original Native allotment applicants have died waiting to receive title or have disputes resolved. Oftentimes, the death of an applicant can present

the agency with chain of title questions to determine who the rightful heir is, causing further delays to getting the lands transferred.

Some disputes have been easier to handle than others, resulting in settlement through an administrative appeals process. The Federal agencies have been hampered by many administrative and legal obstacles. There have been court decisions and lawsuit settlements, new legislation creating new rights of changing rules midstream. Old cases have been reopened that have created new land patterns for adjudication and survey. The administrative appeals process was designed to be efficient, and immediately accessible to individuals who believe they have been adversely impacted by actions taken by the BLM. It too many instances this process has resulted in long delays that hinder the BLM from finalizing its work. In the meantime, the applicant suffers at the hands of a process that generally takes years just for a case to be reviewed for resolution.

This legislation will provide the BLM with broader authority for solving many of the problems associated with land claims affecting all disputes that occur in Alaska. When disputes arise over the adjudication of land claims, BLM needs to have full authority to work in a more collaborative environment with its clientele.

This legislation will provide the BLM the opportunity to caucus with its clients. It will allow for a process of negotiation to gain consensus on final resolution of land applications. What has been missing all these years is the flexibility for the Federal agencies to work in such a cooperative fashion. This new process is intended to be free of complicated rules that have plagued the agency to finding solutions. Resolution and closure must come quicker.

Mr. President, I give great credit to the management and the employees of the BLM Alaska for their efforts over the years to transfer the land. They have proven to be dedicated and committed public servants. I believe they have tried to do the right thing; they just need the tools and the resources. They want to close the books on the Alaska conveyance program once and for all, and this bill will help them achieve that goal by 2009.

In 1973 the Alaska Native Claims Appeal Board was established. The Board had jurisdiction over decisions made under the Alaska Native Claims Settlement Act. The Board consisted of four judges, and was able to decide a case within 3 to 6 months of the close of briefing. It usually had a small backlog. While the Board was able to act in a fairly responsive manner, there was criticism the Board did not correctly apply general Federal land law precedent and that some of their rulings were inconsistent with policy of the Department of the Interior. The Board was dissolved in 1981. The backlog of cases was not necessarily attributed to Native Corporation cases; most of the backlog related to all other matters. This legislation will create a hearings and appeals process located in Alaska. Presently, there are almost 100 appeals of Alaska decisions pending before the Interior Board of Land Appeals. It usually takes this Board several years to rule on a case, sometimes as long as 3 to 5 years. The present process is broken. There should never be a process that controls the fate of someone's livelihood. Matters requiring resolution must not sit and languish for years without resolution. This practice is unacceptable and unreasonable.

Additionally, more than 20 cases are pending before Administrative Law judges at various Office of Hearings Appeals offices—Virginia, Minnesota and Utah. The cases currently in their hands are Native allotments and mining claims. Substantial delays have resulted from the slow pace of scheduling hearings in Alaska. Establishing an Alaska hearings unit to handle all Alaska appeals would significantly speed up the current process. Such a new process would be able to routinely issue decisions within 3 to 6 months of the close of briefing.

Challenges likely to emerge on land actions requiring judicial review will be handled by judges located in Alaska. Moreover, having judges located in Alaska, conducting Alaska business, would ensure an understanding of the special laws that are applicable to Alaska. In addition, this process would include all land transfer matters, not just claims under the Alaska Native Claims Settlement Act.

To achieve the acceleration of land conveyances, we must be able to count on a consistent level of funding. We do not want any aspect of the acceleration plan to be hampered. As I pointed out earlier, almost 90 million acres must be surveyed between now and 2009. The BLM is the single agency of the Federal Government that is charged with the authority and responsibility for surveys and land title record keeping. Official survey plats are the Government's record of the boundaries of an area and the description of such surveyed land is known as the legal land description. Land title or patents are based on such plats of survey. And, until the land is surveyed, the Alaska Natives, the State of Alaska and the Native Corporations will still be waiting way off into the future for this work to be finalized.

The Alaska Land Transfer Acceleration Act of 2003 imposes very strict provisions on the agency to complete land conveyances by 2009 to Alaska Natives, the State of Alaska and to the Native Corporations. Some might view this plan as ambitious. I view it as being long overdue.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 200—EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD ADOPT A CONFERENCE AGREEMENT ON THE CHILD TAX CREDIT AND ON TAX RELIEF FOR MILITARY PERSONNEL

Mr. JOHNSON (for himself, Mr. DASCHLE, Mrs. LINCOLN, Mr. BAUCUS, Mr. KENNEDY, Mr. GRAHAM of Florida, Ms. CANTWELL, Mr. CORZINE, and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 200

Whereas the Department of the Treasury will begin sending refund checks to taxpayers reflecting the increase in the child tax credit from $600 to $1,000 for 2003;

Whereas over 6,500,000 working families earning between $10,500 and $26,625, which include over 12,000,000 children, will not receive an increase in the child tax credit or a refund check;

Whereas nearly 150,000 United States soldiers are in Iraq sacrificing their lives to ensure freedom for Iraqi citizens;

Whereas of the 300,000 soldiers in combat zones throughout the world, 192,000 will have an earned income below $26,625;

Whereas many military families, which include 1,000,000 children, will not be eligible for the child tax credit unless the Senate Amendment to H.R. 1308 is enacted; and

Whereas many military personnel serving in combat zones and many working families would be eligible for the child tax credit under the Senate Amendment to H.R. 1308: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the committee of conference between the Senate and House of Representatives on H.R. 1308 should agree to a conference report before the August recess;

(2) any conference report on H.R. 1308 should contain the provisions in the Senate Amendment to H.R. 1308 concerning the refundability of the child tax credit;

(3) any conference report on H.R. 1308 should contain the provisions in the Senate Amendment to H.R. 1308 concerning the availability of the child tax credit for military families;

(4) any conference report on H.R. 1308 should contain the provisions in the Armed Forces Tax Fairness Act of 2003; and

(5) any conference report on H.R. 1308 should contain provisions to fully offset its cost.

SENATE RESOLUTION 201—DESIGNATING THE MONTH OF SEPTEMBER 2003 AS ''NATIONAL PROSTATE CANCER AWARENESS MONTH''

Mr. SESSIONS (for himself, Mr. REID, Mr. SHELBY, Mr. KERRY, Mr. BROWNBACK, Ms. CANTWELL, Mr. HATCH, Mrs. BOXER, Ms. COLLINS, Mr. LIEBERMAN, Mr. INHOFE, Mr. BREAUX, Mr. DEWINE, Mrs. LINCOLN, Mr. CRAIG, Mr. MILLER, Ms. SNOWE, Mr. BAYH, Mr. CRAPO, Mr. DOMENICI, Mr. ROBERTS, Mr. NELSON of Florida, Mr. GRASSLEY, Mr. DODD, Mr. SMITH, Mr. DURBIN, Mr. BUNNING, Mrs. FEINSTEIN, Mr. HAGEL, Ms. MIKULSKI, Mr. VOINOVICH, Mr. EDWARDS, Mr. CAMPBELL, Mr. INOUYE, Mr.